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Place:
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Hearing on the wholesale drug industry, March 15, 1934

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NATIONAL INDUSTRIAL RECOVERY ADMINISTRATION

HEARING ON

THE WHOLESALE DRUG INDUSTRY

COLUMBIA UNIVERSITY

March 15, 1934.

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of WARD & PAUL
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NATIONAL RECOVERY ADMINISTRATION

Washington, D. C.

Thursday, March 15, 1934.

- - - -

HEARING ON

Henley

CODE OF FAIR COMPETITION

FOR THE

WHOLESALE DRUG INDUSTRY.

- - - -

The above-entitled matter came on for hearing at 10:20 o'clock, a. m., in the Sun Room, Hotel Washington, Washington, D. C., Deputy Administrator Kenneth Dameron, presiding, assisted by Assistant Deputy Administrator Mark Merrell.

There were also present:

H. H. Maynard, Special Adviser, and

E. O. Mather, Technical Assistant.

Of the Industrial Advisory Board:

O. F. Rumely, and

H. J. Ostlund.

Of the Labor Advisory Board:

J. J. Berrall.

Of the Consumers' Advisory Board:

Thomas McGuire, and

A. P. Aaronson,

Of the Planning and Research Division:

A. A. Kimball.

Of the Legal Division:

Allen Coe.

P R O C E E D I N G S

Deputy Dameron: The meeting will come to order. Ladies and gentlemen, on a proposed code of fair competition for the Wholesale Drug Industry, this code is similar in many respects to the approved General Wholesale or Distributing Trade Code, with the exception of the Wages and Hours provisions, and it is our opinion that those provisions probably are causing more discussion and difficulty than other provisions of the code are; because of the inherent overlapping of commodity distributions, it is probable that any marked discrepancies in wages and hours provisions might be a factor in unfair competition between these trades.

Before hearing statements, let me say that the photographer here has asked that he may take a picture at the outset, and then we can proceed without any further interruption. So I shall recess the meeting until the picture is taken.

(The photographer took pictures at this point).

Deputy Dameron: Mr. Coe, will you give us a statement of the procedure?

Mr. Coe: Before defining the procedure in this hearing, I shall explain its nature. This is not a judicial investigation or legislative investigation, but merely an administra-

tive inquiry into facts upon which the exercise of the Administrator's authority will be predicated. I want to emphasize at this point that this is an inquiry into facts. Details, where possible, should be omitted, and remarks should be confined to summaries or conclusions to be derived from the facts presented. Where possible briefs should be submitted in lieu of oral statements. Remarks should be as brief as possible to be consistent with facts to be elicited. The presentation of evidence and the procedure will be subject to the sole control of the Deputy Administrator in charge, acting in conformity with any general regulations, or with specific instructions of the Administrator.

Arguments upon issues of law will not be heard, but questions of law may be discussed with the representative of the Legal Division after the hearing, and briefs may be submitted directly to the Deputy Administrator. Attorneys will be heard, but merely as a witness presenting facts, and not as a counsel conducting a lawsuit. There will be no rebuttal to testimony except as a statement of fact. Supplementary briefs or matters brought out at this hearing may be filed with the Deputy Administrator in charge at his office as soon as possible after the hearing.

Deputy Dameron: Associated with me at this hearing are Dr. Maynard, our Adviser on this code, Mr. Merrell, and Mr. Ostlund, and Mr. Rumely, of the Industrial Advisory Board;

Mr. Aaronson, of the Consumers' Advisory Board, Mr. Mather, Technical Assistant, Mr. Berrall, of the Labor Advisory Board, and Miss Allen.

Mr. R. D. Faxon, President of the National Wholesale Druggists' Association, represents the code.

(The Code is as follows):

PROPOSED CODE OF FAIR COMPETITION FOR THE WHOLESALE DRUG TRADE.

Article I --Purpose.

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the wholesale drug trade and upon approval by the President shall be the standard of fair competition for such trade and shall be binding upon every member thereof.

Article II -- Definitions.

Section 1. Wholesale Druggist -- The term "wholesale druggist" as used herein shall mean every person, firm, association, or corporation engaged in the business of selling at wholesale a representative assortment of pharmaceutical and/or other articles and materials such as drugs, oils, chemicals, proprietary medicines, and druggists' sundries, and who carries a stock of representative pharmaceuticals and such other articles and materials in such assortments and quantities as will enable him regularly to supply from stock, from day to day, the usual

and immediate medical requirements of retail druggists, pharmacists, physicians, hospitals, and dispensaries, and who is duly qualified under the laws of the State in which he does business to carry on such business.

Modifications of this definition or any part of it may be made when recommended by the Code Authority and approved by the Administrator.

Section 2. Wholesale Drug Establishments. -- The term "wholesale drug establishments" as used herein shall mean any office, warehouse, or department thereof, used as a place of business by a wholesale druggist.

Section 3. Drug -- The term "drug" as used herein shall mean all preparations recognized in the United States Pharmacopeia and National Formulary and supplements thereto, and all substances, preparations, and devices intended for external and internal use in the cure, mitigation, treatment, or prevention of diseases in man or other animals, and all substances or preparations other than food (but including medicinal or quasi-medicinal preparation such as those sold or produced ordinarily for their vitamin content), intended to affect the structure or any function of the body of man or other animals.

Section 4. Cosmetics and toilet preparations -- The term "cosmetics" and the term "toilet preparations" as used herein shall mean "toilet articles" and perfumes, toilet water, face powders, face creams, rouges, shaving creams, dentifrices, soaps,

and similar substances and preparations intended for application to the person for the purpose of cleaning, improving the appearance of, refreshing, or preserving the person.

Section 5. Drug Sundries -- The term "drug sundries" as used herein shall mean such articles as are used in conjunction with but not included in drugs, cosmetics, or toilet preparations.

Section 6. Employees -- The term "employee" as used herein includes anyone engaged in the trade in any capacity, receiving compensation for his services, irrespective of the nature or method of the payment of such compensation.

Section 7. Employer. -- the term "employer" as used herein includes anyone by whom such employee is compensated or employed.

Section 8. Member of the trade. -- The term "member of the trade" includes anyone engaged as a wholesale druggist, as above defined, either as an employer or on his own behalf.

Section 9. President, Act, and Administrator, -- The term "President", "Act", and "Administrator" as used herein shall mean respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator of said Act.

Section 10. Population -- The population, for the purposes of this Code, shall be determined by reference to the 1930 Federal Census.

ARTICLE III -- Hours.

Section 1. On and after the effective date of the Code, some of the members of the trade shall cause or permit any employee, except an employee in an executive, supervisory, technical, or professional capacity who receives $35 per week or more, in cities of over 250,000 population or $30 per week or more in cities of less than 250,000 population (except outside salesmen who are engaged not less than sixty (60) per cent of their working hours outside of the establishments or any branch thereof by which they are employed, except watchmen) to work more than forty-five (45) hours per week or to work more than six (6) days in any one week, except that any member of the trade may cause or permit:

(a) Outside delivery men, maintenance men, outside repair service men, and installation men to work fifty-four (54) hours per week.

(b) All necessary employees to work in excess of 45 hours a week during periods of emergency or epidemics. In order that there be no undue delay in meeting the demands of the medical profession, hospitals, dispensaries, and the general public through retail pharmacies. During such periods of emergency or epidemics, employees shall be paid overtime at not less than the regular hourly rates for all hours of labor in excess of ninety (90) hours during any period of fourteen (14) executive days.

(c) Such employees as may be necessary to work in excess of 45 hours for any one week at statement time provided that such

employees be paid at the regular hourly rates for all time in excess of 45 hours a week.

(d) Such employees as may be necessary for taking periodic physical inventory to work in excess of 45 hours a week, provided that such employees shall be paid at the regular hourly rates for all time in excess of 90 hours in any two weeks.

Section 2. Notwithstanding any provisions of the foregoing Sections of this Article, no establishment comprised of twenty (20) employees or less, whether or not such employees are executives, proprietors, partners, or persons not receiving monetary wages, shall be permitted to exempt from all restrictions upon hours of labor more than one worker (except outside salesmen and watchmen) for every five (5) employees or fraction thereof. No establishment of more than (20) employees shall be permitted to exempt from all restrictions upon hours of labor more than one employee (except as above) for every five (5) employees for the first twenty (20) employees, and more than one employee (except as above) for every ten (10) employees above twenty (20).

Section 3. Hours worked by any employee during each day shall be consecutive, provided that an interval not longer than one hour for each regular meal period may be allowed and such interval not counted as part of the employee's working time.

ARTICLE IV -- Wages.

Section 1. The minimum rates of pay shall be as follows:

(a) In cities of over 500,000 population or in the immed-

iate trade area thereof, at the rate of fifteen dollars ($15) per week.

(b) In cities of between 100,000 to 500,000 population or in the immediate trade area thereof, at the rate of fourteen dollars ($14) per week.

(c) In cities of less than 100,000 population or in the immediate trade area thereof, at the rate of thirteen dollars ($13) per week.

(d) In the South, at the rate of one dollar ($1) per week less than the rates specified above in paragraphs (a), (b), and (c). (The term "the South" means the following States: Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Maryland, District of Columbia, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma and Texas).

(e) In the case of employees on an hourly, part-time, or piece-work basis of pay, a rate which shall be sufficient to produce the minimum rate of pay per week otherwise applicable to such employees.

(f) Junior employees, between the ages of 16 and 18 years inclusive may be paid at the rate of two dollars ($2) less per week than the minimum wage per week otherwise applicable to them for the first twelve (12) months of their employment; and apprentice employees over 18 years of age with less than one year's experience may be paid at the rate of one dollar ($1) less per week than the minimum wage per week otherwise appli-

cable to them. The number of employees classified as junior or apprentice employees combined shall not exceed a ratio of one such employee to every five (5) employees or fraction thereof up to twenty (20) and more than one such employee for every ten (10) employees above twenty (20).

Section 2. Employees shall not absorb increases in payroll due to the hour and wage provisions of this Code by reducing the rates of pay of those employees receiving a wage above the minimum specified in this Code.

ARTICLE V -- General Labor Provisions.

Section 1. No person under 16 years of age shall be employed in the trade, nor anyone under 18 years of age at operations or occupations declared by the Code Authority to be hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before _____(date) a list of such occupations. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate/permit duly issued by the authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

Section 2. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or

in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Section 3. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

Section 4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

Section 5. Within each State this Code shall not supersede any laws of such state imposing more stringent requirements on employers regulating the age of employees, wages, hours ofwork, or health, fire, or general working conditions than under this Code.

Section 6. Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act.

Section 7. Each employer shall post in conspicuous places full copies of this Code.

ARTICLE VI -- Administration.

To further effectuate the policies of the Act, a general Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

Section 1. Organization and constitution of the General Code Authority -- The general Code Authority shall consist of

two representatives from the Federal Wholesale Druggists' Association, two representatives from the Drug Institute of America, Incorporated, four representatives from the National Wholesale Druggists' Association, Incorporated, and such representation from any other national association as may be approved by the Administrator. Such representatives to be elected in accordance with a fair method approved by the Administrator by the respective national trade association.

The Administrator in his discretion may appoint not more than_____ additional members, without vote, to represent the Administrator or such groups or interests as may be agreed upon.

Section 2. Powers and duties of the Code Authority --(a) The Code Authority shall have all the general powers necessary to assist the Administrator in the administration and enforcement of this Code; to require from members of the trade such reports as are necessary to effectuate the policies of the Code; to, upon its own initiative or complaint of any member of the trade, make investigations as to the functioning and observance of any provisions of the Code; to, from time to time, present to the Administrator recommendations (including interpretations) based on conditions in the trade which will tend to effectuate the operation of the provisions of the Act. Such recommendations shall, upon the approval of the Administrator, become operative as a part of this Code.

(b) The Code Authority shall have power to appoint a

Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other codes as may be related to the Trade for the purpose of formulating fair trade practices to govern the relationship between production and distribution employees under this Code and under such others, to the end that such fair trade practice may be proposed to the Administrator as amendments to this Code and such other codes.

(c) The Code Authority shall, subject to the approval of the Administrator, supervise the setting up within regional areas, of regional committees for the purpose of assisting in the administration and enforcement of this Code within such regional areas.

Section 3. The Administrator may, from time to time, after consultation with the Code Authority, issue such administrative interpretations of the various provisions of this code as are necessary to effectuate its purposes, and such interpretations shall becomes operative as a part ofthis Code.

Section 4. If the Administrator shall determine that any action of the Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Adminis-

trator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

Section 5. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any acts of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own wilful misfeasance or nonfeasance.

Section 6. Where the operation of the provisions of this Code imposes an unusual or undue hardship upon any wholesale druggist, or group of wholesale druggists, such wholesale druggist, or group of wholesale druggists may make application for relief to the Administrator, and the Administrator may, after such public notice and hearing as he may deem necessary, grant such exception to or modification of the provisions of this Code as may be required to effectuate the purposes of the Act.

Section 7. Each trade association, directly or indirectly, participating in the selection of the activities of the Code Authority, shall:

(a) Impose no inequitable restrictions on membership, and

(b) Submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereof, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

In order that the Code Authority shall at all times be truly representative of the wholesale drug trade, and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper and thereafter, if he shall find that the Code Authority is not truly representative, or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of any such Code Authority.

Section 8. Wholesale druggists shall be entitled to participate in and share the benefits of any of the activities of the Code Authority and participate in the selectionof the members thereof, by assenting to and complying with the requirements of the Code and sustaining their reasonable share of the expenses of its administration. The reasonable share of expenses of the administration of the Code Authority shall be determined by such Code Authority subject to review by the Administrator, on the basis of the volume of business and/or such factors as may be deemed equitable to be taken into consideration.

Section 9. In addition to the information required to be

submitted to the Code Authority, there shall be furnished government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

ARTICLE VII -- Trade Practices.

The following practices constitute unfair methods of competition for the members of the trade, and are prohibited:

Section 1. False marking or branding -- The false marking or branding or failure to properly brand or mark any product of the trade which has the tendency to mislead or deceive customers or prospective customers, whether as to the grade, age, quality, quantity, weight, substance, character, nature, origin, size, finish, or preparation of any product of the trade or otherwise.

Section 2. Misrepresentation or false or misleading Advertising -- The making or causing or knowingly permitting to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, age, quantity, weight, substance, character, nature, origin, size, finish, or preparation of any product of the trade, or of its curative or therapeutic effect, or the credit terms, values, policies, or services of any member of the trade or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

(a) False making or causing to be made or knowingly per-

mitting to be published statements by way of advertising or otherwise, laying claim to a policy or continuing practice of generally underselling competitors.

Section 3. Commercial Bribery -- Directly or indirectly to give or permit to be given, or offer to give money or anything of value to agents, employees, or representatives of competitors' customers or prospective customers without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase from the makers of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors. This Provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except insofar as such articles are actually used for commercial bribery as herein above defined.

Section 4. Interference with contractual relations -- Maliciously inducing or attempting to induce the breach of an existing oral or written contract between a competitor and his customers or sources of supply, or interfering with or obstructing the performance of any such contractual duties or services.

Section 5. Secret rebates -- The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the

secret extensionto certain purchasers of special services or privileges not extended to all purchasers of the same class on like terms and conditions.

Section 6. Defamation -- The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods.

Section 7. Threats of litigation. -- The publishing or circulating of threats or suits for infringement of patents, or trade marks, or of any other legal proceedings not in good faith, with the tendency or effect of harassing competitors or intimidating their customers.

Section 8. Espionage of Competitors. -- Securing confidential information concerning the business of a competitor by a false or misleading statement or representation, by a false impersonation of one in authority, by bribery, or by any other unfair method.

Section 9. Piracy of trade marks and trade names -- The imitation of a trade mark, trade name, slogan, or the other marks of identification of competitors having the tendency and capacity to mislead or deceive.

Section 10. Trade Relations -- (a) In these lines in which manufacturers, importers, mills, or other primary sellers sell coincidentally to several classes of buyers, the Wholesale

Drug Code Authority, subject to the approval and with the advice of the Administrator, may arrange for a conference of all interested parties, including primary sellers or the Code Authority governing them, for the purpose of defining and establishing price differentials which shall be fair and reasonable in relation to the nature and extent of the distributing services and functions rendered by each buying class. Such differentials shall include all elements affecting the net price, such as discounts, terms, and allowances.

The Wholesale Drug Code Authority, with the advice and consent of the Administrator and after all interested parties shall have been given an opportunity to be heard on the matter, shall formally announce the price differentials which are deemed fair on specific products. When the Wholesale Drug Code Authority announces that a fair wholesale price differential has been established on any product (by sources competent to adequately serve wholesale druggists) then and thereafter, or until the Wholesale Drug Code Authority announces that such fair price differentials have been discontinued, it shall be an unfair trade practice for a wholesale druggist to handle such product unless the price at which it is sold to him allows or provides for such fair price differential.

Nothing in this section shall be construed to interfere with the right of manufacturers to sell direct to retailers or the right of retailers to buy direct from manufacturers.

Nothing in this section shall be construed to prevent fair price differentials from being allowed on the basis of quantity purchased or such other factors as the Administrator may deem proper.

Section 12. The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating, capable of use by all members of the industry. After such system and methods have been formulated, with the approval of the Administrator, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such methods and it shall be an unfair trade practice for a wholesale druggist to sell or offer to sell any commodity at a price demonstrably below such cost to him.

ARTICLE VIII -- Modification.

Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of these Codes or any conditions imposed by him upon his approval thereof.

Section 2. This Code, except as to provisions required by the Act, may be modified on the basis of experience or

changes in circumstances, such modification to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the Administrator.

ARTICLE IX -- Monopolies.

No provision of this Code shall be so applied as to permit monopolies, or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprise.

ARTICLE X -- Effective Date.

This Code shall become effective on the 10th day after date.

STATEMENT OF MR. H. D. FAXON,

President of the National Wholesale Druggists' Association.

Mr. Faxon: I am presenting the code for the Wholesale Drug Trade. It has been prepared by the National Association of Wholesale Druggists' Code Committee, working in conjunction with the Committee of the Federal Wholesale Druggists' Association. As you know, we began to present the codes last August, and have continued.

In presenting this proposed Code of Fair Competition for the Wholesale Drug Trade, it may be desirable for the information of the various representatives of NRA, to call attention to a little of the background of the wholesale drug industry in this country.

The National Wholesale Druggists' Association, I think I should say to you, is an Association having almost 80 years behind it. The Federal Wholesale Druggists' Association will have speakers themselves, and they have 25 years behind them.

We represent a steady and vital part of the distributing system of this country. Our business has been going on for practically 100 years. 100 years, as a separate industry in the United States. Many wholesale drug houses are in existence today that/functioned continuously for centuries. It is an interesting fact that in many of these cases the business has been conducted by the same family during the entire period.

Latterly, we have taken hold of other merchandise than drugs to some extent and we will present briefs to show that 60 per cent of the goods we distribute are drugs, medicines, biologicals, and other things having to do with health. We have been organized a long while. We have served a real purpose.

Since the first wholesale drug house was established in this country, retail pharmacists, physicians and hospitals have depended upon the wholesale stocks carried by these establishments for the immediate supply of essential drugs and medicines. In the early years the stocks of these houses were almost exclusively drugs, chemicals and medicinal preparations. During recent years the stock has become more diversified but it still remains a fact that over 60 per cent of the sales of all wholesale druggists are of medicinal substances. Much

of the other sales consists of toiletries, cosmetics and items which have been for many years extensively sold through retail drug stores.

The wholesale druggist continues to be depended upon by all agencies having to do with the maintaining of the public health for the immediate and prompt supply of medicaments.

The wholesale drug business has long been well organized. At the present time there are two well established national wholesale drug associations; the Federal Wholesale Druggists' Association, composed of approximately 30 diffsrent houses, operating chiefly as cooperative or mutual institutions, and the National Wholesale Druggists' Association, made up at this time of about 230 wholesalers. The last named group, of which Ihave the honor to be President, has been in existence for 58 years and its members have always enjoyed a very large percentage of the entire wholesale drug business of the country. The membership of the N. W. D. A. has always been composed of those wholesale druggists who carry complete stocks so as to meet all of the requirements of retail pharmacists, hospitals and physicians and who also employ salesmen, at this time numbering approximately 3,000, and who extend credit to customers.

In addition to the membership of these two national associations there are, in this country at this time, several hundred other distributors of wholesale drug merchandise.

These additional distributors for the most part do not carry complete lines. Their stocks range from a few items in which they may specialize to several thousand items representing chiefly the more rapid selling preparations.

Between these two groups that I have referred to, we distribute a very large percentage of the drugs and medicines which are distributed. There are other wholesalers distributing drugs, which, generally speaking, do not undertake to give the same complete service as we do. We are prepared to service retail drugstores, hospitals, everything that is needed for their large lines.

The wholesale drug industry is also characterized by maintaining its staffs of employment with very little interruption. Discharges, except for cause, are almost unknown in the usual conduct of the business. New help is almost invariably added as apprentices or learners. The staff in the wholesale drug house is thus maintained more or less without change the year around.

In the preparation of this code for the wholesale drug industry the Code Committees have endeavored to ascertain the facts only. Extensive research work has been conducted during the last year in which the services of some of the personnel of the best research agencies in leading American universities have been employed. It has been the instructions of the officers of the wholesale drug associations that these

Research workers should ascertain the facts and do their work in an impartial and unbiased manner. In the final preparation of the draft of the wholesale drug code due consideration has been given to the fact that the service of the wholesale druggist is intimately associated with maintaining the health of our 125,000,000 people on the one hand and on the other hand to the problem of aiding in every way possible the program of recovery of NRA.

We believe that it will be generally recognized that maintaining the public health is essential in connection with the program of recovery. Our National Wholesale Drug Associations are constantly waging a war on disease. The NRA is waging a war on the economic depression. In the code which we present we have endeavored to join hands so that each may succeed to the fullest extent possible.

Mr. Chairman, we have tried to build up a presentation here that would be not only successful and pleasing to you, because we are going to present a mass of figures without reading them, in the forms of briefs. We have various men who are qualified to present the facts that we have gathered. We are going to stand on our record and we are going to try to impress you with the fact that our trade is exceptional, that it has certain characteristics which take it out from the general wholesaling trade, and we have a sympathetic viewpoint in our endeavors.

Deputy Dameron: In addition to the Association presenting the code, are there any other national associations in this wholesale drug trade?

Mr. Newcomb (Secretary and Executive Vice-President, National Wholesale Druggists' Association, 51 Maiden Lane, New York City): In answer to that question I might state that a new wholesale drug organization was created in New York six or eight or nine months ago, namely, the Allied Wholesale Drug Association.

Deputy Dameron: Do you want to answer questions on the record from a representative -- of a representative character?

Mr. Newcomb: I will be very glad to answer.

3 Deputy Dameron: Let me get this straight. The National Wholesale Druggists' Association has how many members?

Mr. Newcomb: 220 actual members, and 385 associate members, of the manufacturers. The Federal Wholesale Druggists' Association has how many?

Mr. Williamson: Approximately 30 active members, and 85 associate, comprised of manufacturers.

Deputy Dameron: Aside from the total Association members, how many members of the trade do you generally recognize?

Mr. Newcomb: That is in line with many other questions we assume you have in mind asking, and they will be answered very explicitly in these briefs that are going to be submitted, and may I suggest we go right through presenting these briefs

with short statements accompanying them?

Deputy Dameron: They follow the code, do they?

S 4 Mr. Newcomb: Yes.

Deputy Dameron: Then you may ask questions.

STATEMENT OF MR. R. E. M. WILLIAMSON.

Mr. Williamson: Mr. Chairman, I represent the Federal Wholesale Druggists' Association, an organization, as I think it is stated, of approximately 30 members, 30 active members, and approximately 85 associate members, made up of manufacturers and importers. You asked Dr. Newcomb as to the character or as to the manner in which our association elected its membership.

Deputy Dameron: No, I did not; I simply asked the number.

Mr. Williamson: Gentlemen, in respect to this code which is before you today, we in the Federal Wholesale Drug Association have been represented at most or practically all of the conferences and hearings that have been had in the Wholesale Drug mode of procedure, and in giving this code consideration today, our Association would like to make reference with respect to several statements as to our attitude toward the code that is now under consideration, and I might say at the very beginning, that I hope you gentlemen of the NRA Administration will view our problem from the viewpoint, not so much as being entirely commercial and merchandized, as an organization, but that it is a very distinctive part, plays a very

distinctive part in public health service of the country, which, when taken into consideration, we say will justify some of the requests that we would like to have embodied in the code that may be different somewhat from some of the other codes, and there may be a difference in the opinion of some of you gentlemen as to what should be in the code. In that I have specific reference to our requirement of a 45-hour week. The wholesale drug business is a very important link in the service to the public health of the country.

It is a link in the hospital and retail druggist, and wholesale drug business, and the manufacturer, all of which make up this link of serving the public health, and public health does not wait for anyone's business, for it is necessary to be served when and how it occurs, and for that reason we maintain that the 45-hour week is essential to anyone's service to public welfare, that we are asking for.

Therefore, we urge, our Association in collaboration with the National Wholesale Drug Association, that this 45-hour week be granted us.

On the question of wages, we are in accord with the minimum scale of wages, and because, first, we are not very much affected by that, because a greater proportion of our employees are paid more than the minimum scale, and always have been.

Under the clause of Administration, we take the liberty of calling your attention to our experience about the formation of

the Administration of our Code. We urge that the Federal Wholesale Drug Association, in fact, we urge that the Wholesale Drug Association have equal representation on the Administrative Board, not a representation based on size and volume of business, but a representation that will represent various different classes ofthis branch of the trade, not because of the desire for volume or size, but because of a desire to keep our methods, our control of the trade in the fair trade practices conditions in the trade as they are.

Therefore, we feel that each branch of the industry in the Wholesale Drug Business should have the same representation on the Board of Administration or Code Authority, when formed, and we urge that that be done.

We further call attention to the fact that in our opinion an organization such as the Drug Institute, composed of retailers wholesalers, and manufacturers, should not be represented on the Board of the Code Authority in the Wholesale Drug Code.

Passing on then, I might call your attention to this paragraph, to a section of the code which I think we have some reason to make comment about/objection to, passing on to Article VII, Trade Practices -- we find no reason, and raise no objection to any of these sections with the exception of Section 10, under the head of Trade Relations. This is the same paragraph that sets out a differential in the cost of merchandise as charged by a manufacturer to his customers, or as it is termed here, a

primary seller, and I take it that the primary seller is a manufacturer or importer. We feel that that paragraph has no place in the Wholesale Code, and it is distinctly a manufacturers' problem. and does not belong in the Wholesale Code, therefore, we very positively say that in our opinion it should not be in the Wholesale Drug Code.

We refer you to Section 13 of the same Article: "The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating, capable of use by all members of the industry. After such system and methods have been formulated, with the approval of the Administrator, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such methods and it shall be an unfair trade practice for a wholesale druggist to sell or offer to sell any commodity at a price demonstrably below such cost to him."

We interpret that paragraph as not meaning the actual cost of that merchandise to the wholesaler, but meaning the actual cost of the merchandise plus expenses of installing in the wholesale houses, preparing all merchandise ready to be moved out towards the front door. In other words, it means the cost accounting of the expense of doing business.

We do not feel that that paragraph should be in this code unless it is very much more definitely described and very much

more definitely set out.

Those, gentlemen, are the outstanding points in the code, in fact, the only points in the code we feel wise to call your attention to, to register objections to, in the manner that I have just now objected to.

That is the only statement I have to make at this time.

Deputy Dameron: Mr. Williamson, is there any difference in the business chance of your membership as compared with that of the National Wholesale Drug Association?

Mr. Williamson: Our Association is composed of cooperative wholesale drug houses, exclusively, largely ordered, if not entirely ordered by retail druggists as stockholders, or as contributors to the working capital of those companies, and in our membership we only include wholesale houses operating on that plan, and in our bylaws we have the further restriction whereby we prevent an overlapping of competition so far as our membership is concerned, in other words, we restrict our membership to only those members in the cities and within a given radius, in order that there might be no duplication of effort and no overlapping of expense, which must be borne by the retailer, and consequently, by the consumer.

Deputy Dameron: By -- about how many of this mainly cooperative type are there in the United States?

Mr. Williamson: I do not believe there are any that amount to anything outside of our organization. I will qualify that

by this, it is my belief, without having carefully checked it, that that is the case, but as far as I know, all of the well established cooperative companies are in our organization. There may be a few small ones just started that we have not in our organization. I know of one in New York City, the New York City Consolidated, but it is not large.

Deputy Dameron: What per cent of the total wholesale drug business handled those -- is handled through those?

Mr. Williamson: Our business at the present time, our total annual business is approximately from $80,000,000 to $85,000,000. That is so far during 1934. The top figure was about from $70,000,000 to $75,000,000.

Deputy Dameron: Of the total wholesale drug business?

Mr. Williamson: What is the total wholesale drug business, Dr. Newcomb? I think that Professor Ostlund estimated it at from $250,000,000 to $300,000,000.

Mr. Newcomb: It will be presented in one of these briefs.

Deputy Dameron: You have no statement of the positive figures rather than in percentages?

Mr. Williamson: I can give you the positive figures, our total sales, our total customers, we have between 15,000 and 16,000 retail druggists, member customers.

Deputy Dameron: Will you say that again? I did not quite get it. I did not quite hear it.

Mr. Williamson: In our company there are betwen 15,000

and 16,000 retail druggists, of the 50,000 or 55,000 in the country, that are stockholder customers or member customers. Probably 35 per cent of the retail druggists of the country are to a greater or less degree customers of our company.

Deputy Dameron: Then I gather, you would support this code, except you would not support the code unless these provisions you have discussed would be deleted?

Mr. Williamson: That is the way we feel about it.

Deputy Dameron: Would you be willing to put in the record now what suggestion you would make for your provision to make it more definite?

Mr. Williamson: I have not. I have not expected it to be in. I rather expected that it was not acceptible to the NRA Administration, But we are open to argument and will be very glad to discuss it.

Deputy Dameron: Thank you, Mr. Williamson. The next is Mr. Eugene Brockmeyer, of the Federated Association.

Mr. Brockmeyer: Mr. Administrator and gentlemen of the National Recovery Administration, I cannot add much to what Mr. Williamson has said, in my capacity as General Counsel for the Association, except to impress, that the importance of carefully considering the provisions of the proposed code is great, as they give authority to the code authority. However, it will depend, of course, on the constitution of the code authority and the representation upon it of the various organizations

affected. It is perfectly apparent if any one organization is given special representation on the code authority is to give it control, so to speak, necessarily, and an undue advantage would be given the particular organization enjoying majority representation on the code authority. That is very important when you consider that this code, the proposed code, contains a provision authorizing the code authority to require reports and to investigate all members of the trade. It follows that where one Association or its members are in competition with another, as is the case in this industry, it will be quite a serious matter to enable one organization to its representation on the code authority to have easy access to all of the facts and trade secrets of the elector. That just occurred to me in looking over casually the provisions of the code, and I submit that one thought for the consideration of the Administration. Further than that, I have not anything else to say.

Deputy Dameron: The next is Mr. G. G. Minor, of the Owens Minor Drug Company of Richmond, Virginia.

STATEMENT OF MR. G. G. MINOR.

Mr. Minor: Mr. Chairman and gentlemen: in order that we might have information relative to the position of the National Wholesale Druggists' Association and the Federal Wholesale Druggists' Association in the distribution of merchandise of drug and sundries manufacturers, a questionnaire was sent to

several hundred manufacturers of such merchandise -- 385 of whom were Associate Members of the National Wholesale Druggists' Association and 161 of whom were not. Of these 100 Associate Members and 43 non-members replied. The question asked them was: "What percentage of their total sales through wholesale channels was made through members of these two associations," It was found upon analyzing these replies that 88.2 per cent of these manufacturers sold more than 75 per cent of this volume through the members of these two associations.

The brief which I am filing, herewith, gives the details as submitted by these various manufacturers of all classes of drug store merchandise and also gives the names of the various manufacturers who contributed infofmation for this purpose. We are proud to note that the members of these two associations are the predominant wholesale drug distributors of these 143 manufacturers and we believe that the figures presented by them fairly indicate the position that the members of these associations hold in wholesale drug distribution.

We may say further that the manufacturers who contributed to this study are the leaders in the production of drug store merchandise. They include manuf acturers of chemicals, pharmaceuticals, biological products, surgical dressings, clinical thermometers, medicinal proprietary prescription specialties, proprietary medicines, fixed and heavy oils, vegetable drugs, medicinal food products, containers and stoppers used in the

drug industry, toilet preparations, perfumery and cosmetics, rubber goods and other items sold through retail drug stores.

BRIEF

In Support of the Contention that members of the National Wholesale Druggists' Association and Federal Wholesale Druggists' Association are Truly Representative of the Wholesale Drug Trade with respect to Proportion of Volume of the Products of Leading Manufadturers handled.

In support of thecontention that the members of the National Wholesale Druggists' Association and of the Federal Wholesale Druggists' Association constitute a group fairly representative of the general line wholesale drug trade, there are presented herewith data supplied by manufacturers relative to the proportion of their volume sold through the wholesale drug trade that passes through the members of the above named associations.

A questionnaire, a copy of which is appended hereto, was sent to the manufacturers of drug store merchandise who are associate members of the National Wholesale Druggists' Association (a list of which membership is appended hereto) and to 160 other manufacturers who distribute through the wholesale drug trade.

Classification of Manufacturers Reporting Their Sales Through the National Wholesale Druggists' Association and the Federal Wholesale Druggists' Association.

1. Manufacturers of general, medicinal, inorganic and organic chemicals, solvents and chemical specialties, including heavy chemicals.

2. Manufacturers of pharmaceuticals, medicinal specialties, biological products, surgical dressings, surgical instruments and thermometers.

3. Manufacturers of medicinal proprietary prescription specialties.

4. Manufacturers of proprietary medicines, cleaning compounds, exterminators, etc.

5. Manufacturers, distributors, or merchants of fixed or heavy oils, essential oils and flabors, whole ground and powdered vegetable drugs.

6. Manufacturers of medicinal food products.

7. Manufacturers of containers and stoppers used in the drug industry.

8. Manufacturers of toilet preparations, perfumery, and cosmetics.

9. Manufacturers of druggists' sundries, rubber goods, stationery, razors and accessories, sponges and chamois, cameras and photographic supplies, electrical goods, leather goods, brushes, etc.

Replies were received from 143. In order to avoid the disclosure of confidential information no names are given in the accompanying tabulation, but only the percentage of

total sales to wholesale druggists sold to

1. Members of the National Wholesale Druggists' Association.

2. Members of the Federal Wholesale Druggists' Association.

3. Other wholesale druggists.

For purposes of presentation of the data these manufacturers have been classified on the following basis:

Many manufacturers fall in more than one class, where this is the case, the manufacturer was classified according to his predominant products. In no case was any manufacturer placed in more than one classification.

Reports were received in time for tabulation from 143 manufacturers. These represent the group fairly. Of these 143 who report, 126 make 75 per cent or more of their wholesale drug sales to members of the National Wholesale Druggists' Association or the Federal Wholesale Druggists' Association.

Over one-half of them, 76 out of 143 or 53.2 per cent, do over 90 per cent of their wholesale drug distribution through these two groups of wholesale druggists. Reports from 11 indicate that they distribute through the wholesale drug trade exclusively through members of these two associations.

TABLE I

The Percentage of Sales to Wholesale Druggists by Leading Manufacturers Made to Members of the National

Wholesale Druggists' Association and of the Federal Wholesale Druggists' Association.

Percentage of Wholesale Drug Outlet Sales		Number of Manufacturers in each Classification											Cumulative per cent of total.
		1	2	3	4	5	6	7	8	9	10	All	
	100.0%			2	5					4		11	7.70%
95.0 -	99.9	2	3	5	14	1			6	1		32	30.10
90.0	94.9		5	1	15	1		1	3	7		33	53.20
85.0	89.9		3	1	8		2		1		1	16	64.30
80.0	84.9		2	1	8				4	1		16	75.25
75.0	79.9				13				4	2		18	88.20
70.0	74.9				2				2	1	1	6	95.30
65.0	69.9		1		4				1	1		7	97.20
60.0	64.9									1		1	97.90
55.0	59.9							1		1		2	99.40
50.0	54.9							1				1	100.00
Total		2	14	10	68	2	2	3	21	19	2	143	

Associate members of the N. W. D. A. 100

Not members of N. W. D. A. 43

143

The data in support of Table I are presented in Table II without including the names of the manufacturers reporting. Manufacturers who are not associate members of the N. W. D. A. are starred.

TABLE II

Tabulation of Percentages of Wholesale Drug Sales of 143 manufacturers of drug store merchandise by groups of drug wholesalers to whom sales were made

(N. W. D. A. - National Wholesale Druggists' Association
F. W. D. A. - Federal Wholesale Druggists' Association
Other wholesale druggists.)

I. Manufacturers of General, Medicinal, Inorganic and Organic Chemicals, Solvents, and Chemical Specialties including Heavy Chemicals.

N.W.D.A.	F.W.D.A.	Other
98.03%	0.0%	0.87%
94.5	4.0	1.5

II. Manufacturers of Pharmaceuticals, Medicinal Specialties, Biological Products, Surgical Dressings, and Thermometers.

N.W.D.A.	F.W.D.A.	Other
88.58%	6.8%	4.61%
*86.0	7.0	7.0
79.0	14.0	7.0
95.34	0.0	4.66
60.0	5.0	35.0
76.46	17.16	6.38
78.6	6.1	15.3
68.0	18.0	14.0
65.0	20.0	15.0
70.0	20.0	10.0

N.W.D.A.	F.W.D.A.	Other
72.3	12.7	15.0
85.7	14.2	0.1
71.5	13.2	15.3
*81.6	9.4	9.0

III. Manufacturers of Medicinal Proprietary Prescription Specialties.

N.W.D.A.	F.W.D.A.	Other
*97.0%	2.0%	1.0%
82.5	14.0	3.5
76.0	8.0	16.0
95.0	5.0	0.0
75.0	20.0	5.0
90.6	9.4	0.0
80.0	15.0	5.0
76.5	12.7	10.8
74.0	17.0	9.0
*85.0	13.0	2.0

IV. Manufacturers of Proprietary Medicines, Cleaning Compounds, Exterminators, etc.

NWDA	FWDA	Other --	NWDA	FWDA	Other
88.0%	11.0%	1.0%	72.0%	21.0%	7.0%
90.0	8.0	2.0	75.0	15.0	10.0
83.0	14.5	2.5	(90.0	)	10.0
61.3	12.5	26.2	57.0	11.0	32.0

IV. Manufacturers of Proprietary Medicines, Cleaning Compounds, Exterminators, etc. (Cont'd)

NWDA	FWDA	Other --	NWDA	FWDA	Other
90.5	9.5	0.0	68.9	11.6	21.3
80.0	10.0	10.0	71.0	10.1	18.9
*75.0	8.0	17.0	66.5	11.0	22.5
*60.0	30.0	10.0	70.0	14.0	16.0
62.35	11.91	25.74	86.0	9.7	4.3
75.0	20.0	5.0	86.0	12.0	2.0
70.0	28.0	2.0	79.0	12.0	9.0
*55.0	30.0	15.0	*100.0	0.0	0.0
(85.0	)	15.0	*71. 0	9.5	19.5
67.0	10.0	23.0	70.0	20.0	10.0
(90.0	)	10.0	*78.0	10.5	11.5
(95.0	)	5.0	68.86	10.82	20.32
*75.0	15.0	10.0	(99.0	)	1.0
69.2	9.2	21.6	73.49	7.90	18.61
78.0	12.5	9.5	80.0	10.0	10.0
98.0	1.5	0.5	57.0	10.0	33.0
70.0	8.0	22.0	*80.0	18.0	2.0
62.0	6.0	32.0	89.0	11.0	0.0
85.0	10.0	5.0	73.0	16.0	11.0
76.0	17.0	7.0	95.0	5.0	0.0
63.6	12.4	24.0	82.5	6.6	10.9
*82.0	5.0	33.0	*82.0	5.0	13.0

IV. Manufacturers of Proprietary Medicines, Cleaning Compounds, Exterminators, etc. (cont'd)

NWDA	FWDA	Other --	NWDA	FWDA	Other
74.0	10.0	16.0	*63.0	14.0	23.0
79.3	14.3	6.4	84.0	10.0	6.0
68.0	10.0	22.0	88.0	9.0	3.0
62.0	26.0	12.0	67.41	11.82	20.77
*73.0	27.0	0.0	72.0	11.0	17.0
*70.0	23.5	6.5	*80.42	17.69	21.89
*80.0	24.0	16.0	*87.0	10.0	3.0
*78.0	10.75	11.25	65.7	13.2	21.1

V. Manufacturers, distributors, or merchants of Fixed or Heavy Oils, Essential Oils and Flavors, whole ground and powdered Vegetable Drugs.

NWDA	FWDA	Other
80.0%	15.0%	5.0%
70.0	20.0	10.0

VI. Manufacturers of Medicinal Food Products.

NWDA	FWDA	Other
75.0%	13.0%	13.0%
*73.2	10.3	16.4

VII. Manufacturers of Containers, and Stoppers used in the Drug Industry.

NWDA	FWDA	Other
43.1%	13.69%	43.21%
11.0	2.0	87.0
82.7	4.9	8.4

VIII. Manufacturers of Toilet Preparations, Perfumery and Cosmetics.

NWDA	FSDA	Other
94.4%	4.3%	1.3%
72.61	6.04	21.35
83.0	15.0	2.0
75.0	8.5	16.5
*71.80	12.68	15.72
65.0	10.0	25.0
*90.0	5.0	5.0
*80.0	10.0	10.0
*74.6	12.8	12.6
*70.0	20.0	10.0
94.1	2.8	3.1
65.0	30.0	5.0
*60.0	20.0	20.0
*73.0	7.0	20.0
*84.0	12.0	4.0
62.14	9.97	27.89
*54.0	14.0	32.0
77.23	1.69	21.08
*88.4	8.5	3.1
70.0	0.0	30.0
*72.21	7.11	20.68

IX Manufacturers of Druggists' Sundries, Rubber Goods, Stationery, Razors and Accessories, Sponges, Chamois, Cameras and Photographic Supplies, Electrical Goods, Leather Goods, Brushes, etc.

N. W. D. A.	F. W. D. A.	Other
100.0%	0.0%	0.0%
95.0%	5.0	0.0
45.0	20.0	35.0
66.0	13.8	20.2
*47.5	13.9	38.6
98.0	2.0	2.0
78.72	21.28	0.0
*70.0	20.0	10.0
85.0	10.0	5.0
75.57	5.61	18.88
70.0	20.0	10.0
*82.0	8.0	8.0
*90.0	1.0	9.0
90.45	0.0	9.55
*90.00	10.0	0.0
*92.0	1.0	7.0
*69.0	10.0	21.0
*49.0	10.0	41.0
*65.0	5.0	30.0

K. Manufacturers of Soda Fountain Supplies:

N. W. D. A.	F. W. D. A.	Other
84.8%	7.9%	27.7%
83.0	5.0	12.0

The data as above presented demonstrate clearly the position of the National Wholesale Druggists' Association and the Federal Wholesale Druggists' Association as predominant distributors in the wholesale drug industry.

Names of Manufacturers who reported distribution of sales among wholesale druggists:

Acme White Lead and Color Works, Detroit, Michigan.

Allaire Woodward & Company, Peoria, Illinois.

American Hard Rubber Company, New York.

Amity Leather Products, West Bend, Wisconsin.

AnascarinChemical Company, Winchester, Tennessee.

Armand Company, Incorporated, Des Moines, Iowa.

Armstrong Cork Company, Lancaster, Pennsylvania.

Arzen Laboratories, Clinton, Iowa.

Bauer and Black, Chicago, Illinois.

The Bayer Company, Incorporated, New York.

Belmont Laboratories, Philadelphia, Pennsylvania.

Band Electric Company, Jersey City, New Jersey.

Battle Creek Food Company, Battle Creek, Michigan.

Bourjois, Incorporated, New York.

Bradfield Company, Atlanta, Georgia.

Bristol-Myers Company, New York.

Buckeye Stamping Company, Columbus, Ohio.

Burma-Vita Company, Minneapolis, Minnesota.

Campana Company, Batavia, Illinois.

Carpenter Morton Company, Boston, Massachusetts.

Centaur Company, New York.

Chamberlain Laboratories, Incorporated, Des Moines, Iowa.

Clapp & Son, Otis, Boston, Massachusetts.

Coca-Cola Company, Atlanta, Georgia.

Corega Chemical Company, Cleveland, Ohio.

Crookes Laboratories, New York.

Crystal Chemical Company, New York.

Carl Damschnitz, New York.

Davol Rubber Company, Providence, Rhode Island.

DeVilbiss Company, Toledo, Ohio.

Dill Company, Morristown, Pennsylvania.

Doane, Charles R., Brooklyn, New York.

Dow Chemical Company, Midland, Michigan.

Eimer and Amend, New York.

Fairchild Brothers and Foster, New York.

Farmaide Products, Lincoln, Nebraska.

Farastan Company, Philadelphia, Pennsylvania.

Fairest Company, New York.

Fellows Medical Company, New York.

Fellon Company, Henry, Philadelphia, Pennsylvania.

French Battery Company, Chicago, Illinois.

French Lick Springs Hotel, French Lick, Indiana.

Fruit Industries, Limited, New York.

Frye Company, George C., Portland, Maine.

Garfield Tea Company, Brooklyn, New York.

General Electric Company, Schenectady, New York.

General Laboratories, Incorporated, Madison, Wisconsin.

Golden Peacock, Paris, Tennessee.

Goodrich Rubber Company, Akron, Ohio.

Hansen's Laboratory, Incorporated, Little Falls, New York.

Hart & Company, Elmira, New York.

Health Products Corporation, Newark, New Jersey.

Hexin, Incorporated, Chicago, Illinois.

Higgins Company, Charles M., Brooklyn, New York.

Hinrod Manufacturing Company, Hoboken, New Jersey.

Hinze Ambrosia, Incorporated, New York.

Hiscox Chemical Works, Patchogue, Long Island.

Horlick's Malted Milk Corporation, Racine, Wisconsin.

Hughes & Company, V. A., Chicago, Illinois.

International Proprietaries, Dayton, Ohio.

Iodent Chemical Company, Detroit, Michigan.

Janvier, Walter, Incorporated, New York.

Jayne & Son, Incorporated, Dr. D., Philadelphia, Pennsylvania.

Johnson & Johnson, Brunswick, New Jersey.

Kalak Water Company, New York.

Keller Company, Mechanicsburg, Ohio.

Kilmer & Company, Dr., Binghamton, New York.

Knox Glass Bottle Company, Knox, Pennsylvania.

Knox Company, Kansas City, Missouri.

Kobi Company, J. W., Seattle, Washington.

Kohler Manufacturing Company, Baltimore, Maryland.

Kondon Manufacturing Company, Minneapolis, Minnesota.

Kress & Owen Company, New York.

Kretchmar, A. W., New York.

K. R. O. Company, Springfield, Ohio.

Lavorie Chemical Company, Minneapolis, Minnesota.

Lawrence-Williams Company, Cleveland, Ohio.

Leeming & Company, Thos., New York.

Lehn & Fink, New York.

Lilly & Company, Eli, Indianapolis, Indiana.

Lloyd Brothers, Cincinnati, Ohio.

Lobl Manufacturing Company, Middleboro, Massachusetts.

Lucky Tiger Company, Kansas City, Missouri.

Luft & Company, Long Island City, Long Island.

Luxor Company, Chicago.

McCormick & Company, Baltimore, Maryland.

Magnus Mayber & Renard, New York.

Malthie Chemical Company, Newark, New Jersey.

Marvel Company, New Haven, Connecticut.

Maryland Pharmaceutical Company, Baltimore, Maryland.

Mennen Company, The, Newark, New Jersey.

Mentholatum Company, Wichita, Kansas.

Merrell Company, William S., Cincinnati, Ohio.

Miles Laboratories, Elkhart, Indiana.

Mint Kist Company, Coshocton, Ohio.

Mosso Laboratories, Chicago, Illinois.

Murine Company, Chicago, Illinois.

Musterole Company, Cleveland, Ohio.

National Licorice Company, Brooklyn, New York.

Natex Company, Baltimore, Maryland.

Nelson Manufacturing Company, Richmond, Virginia.

Numotizine, Incorporated, Chicago, Illinois.

Oakland Chemical Company, New York.

Old Peacock Sultan Compan y, St. Louis, Missouri.

Owens Illinois Glass Company, Toledo, Ohio.

Packer Manufacturing Company, New York.

Paris Medicine Company, St. Louis, Missouri.

Patch & Company, E. L., Stoneham, Massachusetts.

Penick & Company, S. B., New York.

Pepsin Syrup Company, Monticello, Illinois.

Peterman, Incorporated, William, New York.

Phillips Chemical Company, New York.

Pinaud, Incorporated, New York.

Polk-Miller Products Corporation, Richmond, Virginia.

Poloris Company.

Pro-phy-lac-tic Brush company, Florence, Massachusetts.

Ransom, Son & Company, D., Buffalo, New York.

Reed & Carnrich, Jersey City, New Jersey.

Rinex Laboratories, Cleveland, Ohio.

Pine Brothers, Philadelphia.

Schering & Glatz, Incorporated, New York.

Schiffmann Company, R., Los Angeles, California.

Smith Pharmacal Compan y, New York.

Searle, G. D. , Company, Chicago.

Schlotterbeck & Foss Company, Portland, Maine.

Smith Company, J. Hungerford, Rochester, New York.

Schnefel Brothers, Newark, New Jersey.

Spinlock Heal Company, Nashville, Tennessee.

Squibb & Sons, E. R. New York.

S. S. S. Company, Atlanta, Georgia.

Std.Safety Razor Company, East Norwalk, Connecticut.

Suspho Naphthol Company, Boston, Massachusetts.

Stearn & Company, Frederick, Detroit, Michigan.

Sterling Products, Incorporated, Wheeling, West Virginia.

Taylor Instruments Company, Rochester, New York.

Tish, Cincorporated, New York.

Upjoh n Company, The, Kalamazoo, Michigan.

Vapo Cresolene Company, New York.

Viburno Company, New York.

Vick Chemical Company, Greensboro, North Carolina.

Walker & Company, Myron L., New York.

Western Company, Chicago, Illinois.

Whitall Tatum Company, Philadelphia.

Westclox Company, LaSalle, Illinois.

Winthrop Chemical Company, New York.

Wright & Company, J. A., Keene, New Hampshire.

World's Dispensary Medical Association, Buffalo, New York.

7 Youngs Rubber Company, New York.

Deputy Dameron: Mr. A. K. Mayer, Chairman, Board of Control, National Wholesale Drug Association.

STATEMENT OF MR. A. K. MAYER,

Chairman, Board of Control, National Wholesale Druggists' Association.

Mr. Mayer: Mr. Chairman and Gentlemen: I would like to say briefly before I start that I am very happy to see Mr. Williamson reverse his opinion at the last informal hearing of the Wholesale Drug Code in regard to Section 10, in which I concurred in.

In presenting this brief, Exhibit B, it should be stated that the National Wholesale Druggists' Association has for many years been engaged in scientific research of the business problems of distribution of the Drug Industry. Some five years ago the Association established a Statistical Division and placed the same under the direction of Professor H. J. Ostlund of the School of Business of the University of Minnesota,

Since that time, extensive research on many of the major problems in the field of distribution have been carried out. The results of much of this research is contained in bulletins of the Statistical Division and inasmuch as these contain many facts offumndamental importance, in connection with problems arising under the NRA, we herewith file a set of these bulletins as a part of Exhibit B. The results of much of our special research work relating to wholesale drug distribution under the NRA are contained in this special bulletin entitled "Statistical Data Relative to the Wholesale Drug Trade." An attempt has been made to bring together in this publication all of the essential facts relative to employment, wages, and other factors bearing on the wholesale drug business. In 1922, the services of the School of Business of Harvard University were utilized, and numerous surveys of the entire wholesale drug and manufacturing drug trade have been made.

The facts assembled, support without question, the schedule of hours and wages provided for wholesale druggists in the proposed code being considered at this time.

Finally, we believe, we may be pardoned for referring to the statements of research workers in many other industries, namely: - that the research work done by Professor Ostlund has been of the very highest order and exceeds in its scope and thoroughness similar research for many other industries in the country with possibly one or two exceptions.

It has been the constant aim of the Code Committee of the National Wholesale Druggists' Association to produce a Code for the Wholesale Drug Trade which will maintain the important services of the wholesale druggists to pharmacists, physicians and the public and at the same time produce the results which it is desired to accomplish under NRA. It is our earnest desire as wholesale druggists to do our full part in securing economic recovery. While this is being accomplished, we also feel it essential that we maintain all of our services which are essential to the health welfare of not only the laboring class but the entire population of the United States.

With these few introductory remarks, I take pleasure in officially filing this Exhibit B, together with other briefs of our Statistical Division and also publication of the Druggists Research Bureau which have been made possible primarily through the support of the National Wholesale Druggists' Association. I add in closing that these publications contain numerous tables and factual data not referred to in the summary to be presented by Dr. Newcomb, all of which have a more or less direct bearing on the problem of recovery.

Deputy Dameron: Do you want to answer one or two questions on the definition?

Mr. Mayer: If I may.

Deputy Dameron: Do you want Dr. Newcomb to answer them?

Mr. Mayer: I would rather have Dr. Newcomb answer them.

He has all the information, and data to support our statement in facts and figures.

Deputy Cameron: I do not mean that. I do not want figures.

The next witness is Mr. Doerr, President of the McKesson Minneapolis Drug Company, Minneapolis, Minnesota.

STATEMENT OF MR. GEORGE V. DOERR,

McKesson, Minneapolis Drug Company, Minneapolis, Minnesota.

Mr. Doerr: It is my pleasure to file a brief in support in the proposed Code of the Wholesale Drug Industry calling for a maximum working week of 45 hours and the proposed wage schedule. The Wholesale Drug Industry has conducted a very careful and reliable survey of wages and hours in the industry for the year 1929 and for 1933 prior to the going into effect of the President's Reemployment Agreement to which the Industry subscribed. We have studied very carefully the conditions surrounding employment in the wholesale drug industry and the factors that affect the welfare of labor in that industry. I may say that the industry is justified in taking great pride in the fact that in spite of a drastic reduction in sales volume during the period of the depression, we have been able to maintain a labor force without reduction in anything like the same proportion as sales have fallen.

Wholesale druggists in general are not in a position to

discharge help when sales are reduced because it is a fact well established by experience all over the country that it is impossible for them to step out into the general labor market and secure employees for the various highly specialised and expertly trained jobs in their houses without a relatively long period of training. Employees for most of the tasks in wholesale drug houses must be trained through a relatively long period of apprenticeship before they can be relied upon to take the responsibilities of many tasks. The result is that there are not available at the present time employees that can step in to fill the places of those who retire in the normal course of events. It is a fact that in spite of the reduction in sales and in the normal separations which take place the wholesale druggist has been forced even during the depression to bring in new employees. This is more than can be said for most industries at the present time.

It is also true that many wholesale druggists have been very reluctant to part with employees even when they knew that their establishments were overmanned knowing full well the difficulties that these few employees that they might have discharged would face in securing new positions. They have chosen rather to retain their employees on a part time basis in order to maintain their connections with them. For this reason, even when many employers drastically shortened their hours under the FRA they did not find it necessary to go out

into the market and pick up many new employees but rather the great amount of slack already existing in their personnel. If other industries would have done what the wholesale druggists did, there would have been no occasion for the action that has been taken by the Administration to promote reemployment. We believe that it can be truthfully said that the wholesale druggists had already before the NRA was even thought of, carried out its principles to the fullest extent in the operation of their establishments. Of this fact we are justly proud.

The brief which I am filing herewith contains extensive data from a large and representative group of our various houses in substantiation of the statements that I have just made.

BRIEF

In Support of the Contention that a 45-Hour Week for Labor is Fair and in Fulfillment of NRA Requirements for the Wholesale Drug Industry.

The fairness of a 45-hour maximum work week in the wholesale drug industry is supported by the following considerations:-

1. Wholesale drug houses find it impossible generally to maintain the same short working hours or the same short working week that can be applied in some other lines. A substantial proportion, from 50 to 60 per cent, of the merchandise of wholesale druggists in medicinal preparations and sick room supplies. Retail druggists for the most part demand and generally have a right to expect prompt service for this class

of merchandise. It is therefore necessary forwholesale druggists generally to deliver or ship all orders on the day received.

The service wholesale druggist is more than a purveyor of merchandise. He distributes commodities which are vital in the preservation of health or the restoration of impaired health of the community. As the drug industry is at present organized the wholesale druggist is a vital link in this distribution. He must and does accept the responsibility of maintaining full stocks and of filling all orders promptly in the interest of the public health. Prompt delivery of medicinal merchandise is therefore a requisite of complete service.

In order to render this service in those localities where the mails are not received very early in the morning, it becomes necessary to operate a long enough day to care for all the morning and even many of the afternoon orders. This does not take into consideration the emergency calls that may be received nights or Sundays and which every wholesaler stands prepared to fill.

Some houses are so located and have such mail service on their country sales that the day's order filling can begin early and be concluded early enough to warrant a short work week. These cases are, however, not numerous.

As evidence of the variation in operating hours in different houses reference is made to Table XV in the Statistical

Summary of the Wholesale Drug Trade data from 110 wholesale druggists in 1929 and from 111 in 1933 showing the number of hours per week which these houses remained open for business. (The same houses reported for both dates save that two houses did not report for 1929).

In 1933 it will be observed that in spite of greatly reduced sales there was still apparent necessity for 57 of the 111 reporting houses to remain open 50 hours a week or more, while 36 of the 111 were able to remain open 45 hours a week or less. The average hours a week kept open by the 110 houses in 1929 were 52.7 while the average hours of the 111 houses in 1933 were 48.3, a relatively small reduction when it is considered how great was the pressure to curtain operating hours.

Furthermore, it must not be inferred that because it has been possible in certain cases for houses actually to bring about some curtailment in operating hours, that this process can be carried further in those houses that have already done so or that other houses can do so at all.

The number of hours a week that a wholesale house remains open for business or operations depends on: 1. The quality of service rendered by the house. 2. The buying habits of the retail trade the house serves. 3. The mail and transportation schedules under which the house is required to opera te.

If it were sound business policy and in the public interest to do so service wholesale druggists could easily

reduce the operating hours per week to whatever number would result in the most economical handling of the orders in even flow irrespective of the varying rate at which these orders are received, then the number of working hours per week could be substantially reduced for most houses, and at the same time the number of employees on the payrolls could also be substantially reduced.

In view, however, of the nature of the service the wholesale druggist renders in the interest of the public health it is impossible to make any such adjustment in his schedules. Profit or not profit, the community has a right to expect prompt and complete service from the wholesale druggists. This service must not be curtailed. Its curtailment would be in direct opposition to all the ideals and purposes of the New Deal and neither the wholesalers nor the administration can consistently promote directly or indirectly such curtailment.

2. The Wholesale Drug Trade has contributed only moderately, if at all, to the unemployment situation in the sense of reduced personnel, and if the known number of former employees of wholesale druggists now out of work because of the depression be taken into consideration, then the wholesale drug trade may very properly be said to have taken care of its unemployment problem in advance of the NRA, and in a far more satisfactory manner than by discharge of employees only to hire them back later.

To indicate clearly the employment situation in the wholesale drug trade it is necessary to provide data for 1929 and 1933 with respect to: A. Sales; B. Employees; C. Employee hours; D. Total wages; E. Average wages per employee.

Data with respect to these items comes from two different sources. The first is a survey made by the Bureau of Business Research of the Graduate School of Business Administration of Harvard University.

Preliminary data from this survey was furnished by the Bureau for 124 wholesale drug houses for which there were complete reports covering the years 1929 to 1932, inclusive. The data are submitted as Table VII in the Statistical Summary. The main points are these:

1. Sales in 1932 were 68.38 per cent of those of 1929.

2. The number of employees in 1932 was 81.30 per cent of the number in 1929.

3. All wages and salaries were 72.4 per cent of those in 1929.

4. Wages of employees earning below $30.00 in 1933 were 82.10 per cent of those in 1929.

The point to consider is that neither the drop in employees nor the drop in wages and salaries paid was nearly as great by the end of 1932 as was the drop in sales.

Other data covering membership of both the National Wholesale Druggists' Association and the Federal Wholesale Drug-

gists' Association cover essential facts as of the first six months of 1929 and the first six months of 1933. These figures it should be pointed out show a much greater degree of variation than do the figures presented above because of the fact that sales were unusually active in the first half of 1929 due among other things to a major influenza epidemic, and also because of the fact that the first half of 1933 exhibited a further slump in sales even below 1932. The accompanying Table (Table I) gives the sales of 148 houses classified as to section of the United States and as to size of city for the first six months of the years 1929 and 1933.

It will be observed that the sales of the first half of 1933 were 62.1 per cent of those of the first half of 1929.

TABLE I.

SALES OF 148 WHOLESALE DRUGGISTS

First 6 months of 1929 and 1933.

	Number of Houses		1929	1933		1933 % of 1929
East	31	32	434 624-23	664	585	73.0
Central	42	47	303 888-27	271	673	57.8
West	15	25	974 554-15	655	167	60.3
South	60	37	861 957-22	471	161	59.4

	Number of Houses		1929	1933		1933 % of 1929
Cities under 100,000	48	22	969 144-13	941	908	80.8
Cities over 100,000	99	120	605 879-75	120	678	82.3
Entire U. S.	146	143	575 023-89	062	588	82.1

Table II gives the number of employees in these same houses (exclusive of salesmen and executives drawing over $100 a week).

It will be observed here that the total number of employees on the payrolls has fallen to 77.4 per cent of the employment in 1929. This is a decline of 22.6 per cent over a period of four years (July 1, 1929, to July 1, 1933) and amounts to a decrease of 5.1 per cent of the payroll of each year.

It is the statement of many wholesale druggists that they discharged no employees because of the depression but that when voluntary or natural separations took place replacements were not made. As a matter of fact in many cases replacements were made. However, 5.1 per cent a year is apparently not an excessive rate of natural separationfrom causes such as death, ill health, marriage, voluntary change of occupation or removal from city, discharge for cause, etc.

Because of the fact that there was of necessity such part time employment as a result of the reduction in sales without corresponding reductions in personnel, wholesale druggists were

asked to give weekly hours of work. Replies from 142 were received. Table III is a tabulation of these replies. From this table it appears that the hours per week worked during the first half of 1933 were 73.5 per cent of those worked during 1929.

TABLE II

Total Employees -- Exclusive of Salesmen and Executives Drawing over $100 a Week in 148 Wholesale Drug Houses in 1929 and in 1933 Previous to P. R. A.

	Number of Houses	Employees 1929	Employees 1933	1933 % of 1929
East	31	2,682	2,105	78.4%
Central	42	3,397	2,546	75.0
West	15	2,065	1,666	80.8
South	60	2,700	2,080	77.0
Cities under 100,000	49	1,562	1,266	81.1
Cities over 100,000	99	9,282	7,131	76.8
Entire U. S.	142	10,844	8,387	77.4

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TABLE III

Total Employee Hours per Week in 142 Wholesale Drug Houses in 1929 and 1933 Previous to P. R. A. (Exclusive of Salesmen and Executives drawing over $100 a Week)

	Number of Houses	1929	1933	1933 % of 1929
East	30	120,332	91,482	76.0
Central	40	157,160	108 ,364	68.9
West	18	100,578	74,868	74.3

	Number of Houses	1929	1933	1933 % of 1929
South	56	123,717	93,170	75.7
Cities under 100,000	45	74,257	56,849	76.5
Cities over 100,000	97	427,530	311,575	72.6
Entire U. S.	142	501,787	368,224	73.5

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Table IV is a summary of weekly wages paid in the first half of 1929 and of 1933. For this table 140 wholesalers furnished information. It appears that weekly wages being paid by wholesale druggists during the first half of 1933 were 63.2 per cent of those being paid during 1929.

Weekly wages, it is observed has fallen more than employment and more than the weekly hours worked. The reason for this lies in the fact that in addition to a reduced personnel and to considerable part time work or shortened hours there were actual cuts in wages as well.

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TABLE IV

Wages per week Paid Employees in 1929 and 1933 Previous to PRA in 148 Wholesale Drug Houses (Exclusive of salesmen and executives drawing over $100 per week).

	ALL EMPLOYEES			Employees under $35 a Week		
1929	Employees	Total Weekly Payroll	Average Weekly Wage	Employees	Total Weekly Payroll	Average Weekly Wage
East	2 688	$ 72 988	$27.82	2 039	$ 45 011	$22.10
Central	3 397	96 848	24.56	2 751	57 834	21.00
West	2 064	59 485	28.80	1 680	39 316	23.40
South	2 700	74 527	27.60	2 193	44 841	30.85
Cities under 100 000	1 562	43 023	27.55	1 281	26 289	20.49
Cities over 100 000	9 287	250 828	27.00	7 382	160 713	21.76
All U. S.	10 849	293 849	27.19	8 663	187 002	21.60
1933						
East	2 111	48 719	23.05	1 824	35 831	19.65
Central	2 546	53 435	21.00	2 201	38 239	17.35
West	1 683	37 892	22.54	1 414	29 287	10.70
South	2 080	45 900	22.08	1 836	32 658	19.95
Cities under 100 000	1 266	26 898	22.80	1 095	19 628	17.94
" over " "	7 154	157 148	21.98	6 180	116 387	18.80
All U. S.	8 420	186 046	22.33	7 275	136 015	18.70

Table V gives the data relative to average weekly wages in 1929 and 1933 in 148 wholesale drug houses. The average weekly wage for these two years are given for all employees (except salesmen) drawing less than $100.00 a week, and for all employees drawing less than $35.00 a week.

Average wages for all employees dropped from $27.10 a week to $22.33 a week. This is a 17.7 per cent drop.

The average wages of employees drawing less than $35.00 a week dropped from $21.60 to $18.70 a week, a 13.4 per cent drop.

This drop is not as great as was the drop in the cost of living in the meantime. The cost of Living Index calculated by the Department of Labor was 170.2 in June 1929 and 128.3 in June 1933 a drop of 24.6 per cent. Thus those still employed in the industry evidently have an actual increase in real wages as of June 1933.

It must be understood that these figures must not be accepted without the qualification that there may have been changes of wage classification during the period that tend to obscure or modify the figures somewhat. The most satisfactory comparison of wages as of two dates whould be that of employees who had not changed their status or classification in the meantime.

It must also be remembered that the reduction in weekly wages is not alone the result of reduction in wage rates but

also of reductions in working hours in part time employment.

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TABLE V

Total Weekly Wages Paid By 149 Wholesale Druggists in 1929 and 1933 Previous to P. R. A.

	Number of Houses	1929	1933	1933 % of 1929
East	32	72,690	48,719	67.0%
Central	42	86,848	53,435	61.5
West	15	59,485	37,530	63.1
South	60	74,527	45,900	61.6
Cities under 100,000	49	43,023	27,897	64.7
Cities over 100,000	100	250,527	157,687	62.9
Entire U. S.	149	293,550	185,584	63.2

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3. Wholesale druggiest had already applied the principles of the N. R. A. before the act was ever thought of. Wholesale drug houses for the most part have not the numerous personnel found in large manufacturing establishments. The result is that in many instances personnel relationships are closer than in large businesses. There has therefore been considerable reluctance to discharge employees when it was well known that in many cases they had dependents to support with little or no possibility of their finding other

jobs.

Another consideration resulting in retaining employees even when they were not actually needed is the fact that for many tasks in the wholesale drug business employees must have a special training that can be acquired only in that business and often even that must be acquired in a specific house. Errors in filling orders for drugs, medicinals, pharmaceuticals, biologiclas, serums vaccines and sickroom or hospitals needs simply must not occur. An error infilling an order for foods or hardware could doubtless cause great inconvenience and some loss. An error infilling an order for a needed drug might not involve such a very large amount and it might not cost as much to correct but it might be of vital importance in the matter of health, even to life or death. In many communities retail druggists cannot possibly carry all the medicinal items that they may be called on to supply on short notice. Where retail druggists carry from 6,000 to 10,000 items wholesalers must carry from 20,000 to 80,000 items, any one of which may be needed by a retailer in an emergency. Retailers must rely and do rely on service wholesale druggists to supply these needs accurately and promptly. This means that service wholesale druggists must have employees who can maintain the stocks of these items adequately and fill the orders for them correctly as need arises.

It therefore becomes important for the wholesale druggist who aims to supply medicinal and surgical and sick room supplies to maintain his staff fully because he cannot go out into the open market and pick up usable help later when the need actually arises. This important fact has resulted in greater security of tenure for the employees of wholesale druggists than for most other groups of employees.

The need for maintaining of skilled employees on the job even when their services are not fully needed is the fact that the items handled by wholesale druggists are very numerous. The known numbers range from 13,000 to 87,000 items for a single house.

4. The decline in the number of employees is not altogether due to the depression. During the past five years in particular there has been a pronounced movement toward greater efficiency in operation in the wholesale drug trade which would have resulted in a decreased personnel even if sales had remained stable. This movement was manifest in several ways.

A. Several wholesale drug houses have made strenuous and effective efforts to bring about substantial economies in operation. In several cases industrial engineers have been employed to make surveys of internal operations and to make recommendations for economies.

B. During this period there have been improvements in layout of houses to get work done more promptly and economically. Some houses have installed conveyor equipment thus reducing the need for a certain amount of labor.

C. There has been a trend toward the abandonment of owned delivery equipment for contract delivery. This has quite naturally reduced the apparent employment in the industry since, quite naturally the employees of the trucking concerns do not appear in the statistics of the wholesale drug industry.

D. In 1929 the Statistical Division of the National Wholesale Druggists' Association was formed for the purpose of collecting information that would be of aid in effecting economies and reducing costs. The effects of this work are to be found in the efforts of wholesalers to bring their costs into line with the better performance of competitors of their own class. This alone should have resulted in a reduced personnel in the industry even without the reduction involume taking place since 1929.

It is therefore evident that not all the reduction in personnel can be laid to the depression, and that if sales were now to come back to the level of 1929, genuine operating economics put into effect since then would make it possible to do the same business with a substantially reduced personnel.

How much therefore of the 23.8% reduction in personnel can be laid to the depression and how much to operating improvements that would have existed even without the depression is difficult to say, but it is quite obvious that to expect the wholesale drug trade to revert to 1929 personnel standards is making it to bear more than its true share of the present unemployment burden.

5. Under usual operating conditions a change to the 45 hour week as effected under the P. R. A. would have brought about an increase of 6.9 per cent in the personnel affected in the wholesale drug industry. Data for the support of this statement are found in Table XVI of the Statistical Summary presented herewith for the records. 45 hour week would effect an increase of 6.9 per cent in the number of persons employed in this industry. Data in support of this statement are found in Table VI appended hereto. A summary from this table shows:

1.	Total employee week hours in 1928	331,518
2.	Employee Hours per week of employees working 45 hours a week or less	85,395
3.	Employee hours per week of employees working over 45 hours a week	246,123
4.	Total employees	8,903
5.	Employees actually working over 45 hours a week	4,987

6.	Number of employees required at 45 hours a week to accomplish 246 123 hours work	5,469
7.	Number necessary to add if all hours in excess of 45 a week were reduced to 46. (5,469 - 4,987 = 482)	482
8.	Per cent increase in personnel (482 plus 6,903 = 6.9)	6.9%

TABLE VI

Weekly Hours of Work by Employees Earning Less Than $35 a Week in 135 Wholesale Drug Houses.

Hours per Week	Employees					
	1929			1933		
	Office	Warehouse	Total	Office	Warehouse	Total
60	4	17	21	- -	- -	- -
59	-	3	3	- -	- -	- -
58	2	2	4	12	12	24
57	16	104	120	2	24	26
56	6	9	15	3	10	13
55	5	29	34	25	22	47
54	121	52	173	1	79	80
53	85	147	232	35	60	95
52	72	170	242	17	127	144
51	42	565	607	100	258	358
50	161	672	833	143	488	631
49	76	241	317	25	213	238
48	605	946	1,551	401	372	773

Hours per Week	Employees 1939 Office	1939 Warehouse	1939 Total	1933 Office	1933 Warehouse	1933 Total
47	273	448	721	123	157	280
46	210	160	370	208	151	359
45	1,112	652	1,764	992	987	1,979
44	149	164	313	143	272	416
43	22	73	95	56	60	116
42	16	-	16	32	76	108
41	1	-	1	8	51	59
40	11	26	37	98	122	220
39	-	-	-	33	-	33
38	-	-	-	36	-	36
37	18	-	18	193	144	337
36	-	-	-	12	22	34
35	-	-	-	-	-	-
34	-	-	-	24	-	24
Total	3,007	4,480	7,487	2,722	3,708	6,43-

Under normal operating conditions, such as are assumed to have prevailed in 1929, therefore, the change to a 45 hour maximum week (without increasing the hours of those already working less) should effect an increase of 6.9 per cent in employment in the wholesale drug industry.

Calculated in the same manner it can be shown that the increase in employment by the decrease of the working week to lower than 45 hours would have been

Working Week	Normal Expected Increase In Personnel
45	6.9%
44	9.3
43	12.0
42	14.4
41	17.0
40	20.1

The data on working hours per week are also presented in the same manner in Table XVII for 1933. From these figures it is calculated that the potential increase ineemployment for the reduction in the working hours will be as follows:

Working Week	Potential Theoretical Increase In personnel
45	4.6%
44	5.3
43	7.4%

Working Week	Potential Theoretical Increase in Personnel
42	9.6%
41	12.0
40	14.5

The 1933 data are, however, inadequate as a basis for conclusions because of the fact that the hours per week for employees were partly nominal only. Many an employee reported as on a 48 hour a week basis may have been working only part time, taking an extra half or whole holiday per week. The result of the inauguration of the 45 hour week under the P. R. A. coming as it did at a very low point in sales did little but to take up a part of the considerable slack already existing in the organization.

Table XXII of the Statistical Summary gives information submitted by 125 wholesale drug houses giving data up to Oct. 1, 1933. To a total of 6,342 employees in these houses as of Aug. 1, there were added up to Oct. 1, 238 more employees. This was an increase of 3.75 per cent. However, so excessive were the staffs of many houses that 47 out of the 125 had no occasion to add more employees whatever. The interesting fact is that in spite of the very severe burden that would be placed on many wholesale druggiest to have maximum hours reduced below 45, there still are many who would not have to add any new employees.

The one point that must be borne in mind in dealing with employment statistics of the non mechanical industries is that the formula which apply elsewhere do not apply here. A house may already have employees substantially in excess of its requirements and still be compelled to take additional

help because of a reduction in working hours.

If it were possible to shift help about readily so that hours could be staggered as can be done where there are numerous employees that can do the same job, then the increase in employment required if hours were reduced would be proportional to the reduction in hours, but when there are very few people performing given tasks so that it becomes necessary for each employee to put in the same number of hours that the house is open, then aribtrary or rigorous requirements for working hours that have no reference to working conditions become uneconomic and unfair.

6. The reduction of hours below 45 a week will throw an uneven burden on the several houses. This is contrary to the spirit and intent of the Recovery Act. Many of the houses who found that they could operate on reduced hours and still meet the requirements of service in their territory evidently have done so. Others find it impossible to do this even if it were now consistent with the re-employment policies of the President. Many of the small houses also do not find it easy to extend the personnel by degrees unfformly throughout the organization. An extra general stenographer might be hired, increasing the office force by 10 per cent, but an extra pricer might increase the pricing force by 50 per cent or more. The small orgainization does not have the same degree of flexibility as does a larger one. A forced

drastic readjustment must therefore work untold hardship on some houses, particularly the smaller ones.

Table XXIII of the Statistical Summary is an analysis for 110 wholesale druggists by the size of their establishments as indicated by the number of employees showing how the reduction of working hours from 45 to 40 will affect houses of different sizes. As is to be expected, the smaller houses suffer worst. It is necessary to point out that those houses who have less than 30 employees will and who have not already an excess of employees will have to add from 14.4 to 22.7 per cent to their present staff of employees, while in no other group of larger houses will the necessary addition be greater than 13.3 per cent and in some cases running below 10 per cent.

7. Restrictions on delivery hours can be made only with difficulty, particularly in smaller houses. Delivery routes in the wholesale drug trade are sometimes such even in cities that it takes a fairly long day to fill a truck and empty it again. It has not been possible to reduce delivery help considerably. Table XVIII of the Statistical Summary gives reports from 326 delivery employees in 1929 and 288 in 1933 but the figures did not necessarily come from the same houses. Also there is a move toward the abandonment of owned delivery equipment in favor of delivery on contracts.

The average weekly hours of delivery employees did fall from 50.4 in 1929 to 46.2 in 1933, but this does not mean that all houses could make such a reduction. It is necessary to have one man per truck. Also it is necessary to have extra trucks if extra men are to be put on. Thus substantial reduction in delivery hours of the smaller wholesale drug houses would in all likelihood result in the increased use of contract delivery with a consequent reduction in delivery employees among wholesale druggists. It is doubtful if this would produce an equivalent increase in delivery personnel by trucking companies.

Likewise it is to be pointed out that the total personnel affected is after all not considerable. It involves -- not including labor or contract delivery -- not much over an average of two employees per house. The numerous houses not represented in these statistics are such smaller than those that are so represented. Hence among them the delivery personnel should be even less per house.

It becomes impossible to calculate the potential increase in delivery personnel that might result from the restriction of hours to any fixed maximum. The reason for this is that a house now operating two trucks with a man on each could increase the delivery personnel only by adding 50 per cent to the delivery staff.

9. The nature of the wholesale drug business is such

that it cannot well operate with cheap labor. As a result there were relatively few full time employees who were getting below the minimum wage at the time the P. R. A. went into effect. The houses which furnished data reported 1186 out of a total of 7283 or 16.3 per cent, as receiving at the time less than the minimum wage specified. However, there was no indication given as to the number of these who received less than the specified minimum because of short hours at the time -- and there was considerable short time work going on at the time.

Reports were provided for 1079 of these to show that the increase in wages in their case due to minimum wage requirements amounted to $3,242.83 or an average increase of $3.01 per employee. The following data give reference specifically to sections:

	Employees Raised to Minimum Wage	Total Amounts	Average Raise Per Employee
East	211	$ 543.62	$ 2.57
Central States	355	907.33	2.56
West	61	232.62	3.81
South	452	1,559.25	3.45
Total U. S.	1,079	$ 3,242.82	$ 3.01

9. The service wholesale druggists bears an incidental load of the employment situation in another way. Data from

Harvard University Bureau of Business Research show that for 1932 the total sales of 160 wholesale drug houses were $202,308,533 while the accounts and notes receivable outstanding as of Dec. 31 were $48,604,207 or 23.8 per cent of the year's sales. This is just under 3 months business or the sales of 72 business days or 82 calendar days.

This contrasts with the situation at the end of 1930 when the receivables outstanding of a group or representative houses equal the business of 57 calendar days as reported in Bulletin 16 of The Statistical Division of the National Wholesale Druggists' Association, copy of which is on file with the Administrator or 50 days' sales as reported for Dec. 31, 1934 in Bulletin 50 of the Bureau of Business Research of Harvard University.

The service wholesale druggists have, by the extension of credit to the retail trade, carried a heavy part of the burden of employment in the retail trade. It is difficult to state how large a portion of the independent retail druggists are today technically unquestionable solvent. It is certain that if wholesale druggists were to demand payment insistently of accounts receivable there would be even greater unemployment distress in the drug trade than exists now.

The main point is that with the wholesale druggists' current assets heavily loaded with receivables on which collections must not be forced until business improves, and

with these current assets further depleted by current and recent leases, very careful consideration must be given to any proposal which would further imperil the solvency of wholesalers. Should a single important wholesaler become insolvent, pressure which will automatically be placed on his debtors will promote more unemployment in the house itself and among its debtors then will be offset by N. R. A. provisions rigidly carried out in many other houses.

10. The employees of wholesale druggists have one advantage not enjoyed in many other industries, namely that of stable employment throughout the year. While much is being said about hours and wages, it must be clearly understood that after all an employee's annual income is not fixed by his weekly rate, but by this rate times the number of weeks he works. It is his annual and not his nominal weekly income that determines his real purchasing power.

Employees of wholesale druggists have a steady income the year around because of the fact that seasonal variations do not exist in thebusiness and that consequently there is no seasonal employment. There are peaks and depressions in the business, but they are not seasonal variations, and hence there are no seasonal lay offs in the wholesale drug business.

Table XXIV of the Statistical Summary, to which reference has previously been made, indicates the steady movement of sales by months and the even more steady rate of employment

even during a year of declining sales such as 1931.

11. Variations in the load over the days of the week place on the wholesale druggist a personal load that he would not have to carry if he could fill his orders in sequence and in even flow.

Reports from 15 wholesale druggists show how the sales vary over the days of the week. In each case from full week's sales were covered. The results are given in Tables XXV, XXVI, and XXVII of the Statistical Summary. In 8 houses Monday was the lightest day (exclusive of Saturday).

In two cases the heaviest day (Monday in both cases) was over 200 per cent of the lightest (exclusive of Saturday). In 8 cases the heaviest day was between 150 and 200 per cent of the lightest. The actual extremes are even more marked than these average extremes. All this means that the wholesale druggist must carry a staff sufficient to take care of his heaviest loads.

He cannot therefore be expected to carry his staff on the same terms as do those distributors who can smooth out their loads.

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Deputy Denaron: Mr. Berrall, of the Labor Board, has two hearings today, and I will ask him to give his statement at this time so that he can be excused to go to the other meeting.

Mr. Berrall: Mr. Administrator, Members of the Wholesale Drug Trade, this code has been in the mill for a long time. I had hoped that after the many months we had spent on it and the many conferences which we had had with representatives of the Code Committee that when the final draft was submitted it would be a code to which we could give our approval without further delay.

I do not doubt that the members of the Wholesale Drug Trade feel that they have perfectly sound reasons for requesting that they be given a separate code and that they be included in the General Wholesale Code. It is certainly their right to do so, if the conditions in their trade are so entirely different from those in other divisions of wholesaling that they could not operate under its provisions. On the other hand, it seems to me that we in the Administration could expect that any group asking such an exception would be willing to make every concession possible in order to obtain it.

But after all these months and while committees from the Code Authorities for all of the great industries, which have been approved to date, are still wrestling with the problem of how they may go further in the matter of reducing hours and

increasing wages, what do we get from the Wholesale Drug Trade? We get the proposal of a working week -- not only five hours longer than that in the General Wholesale Code but also five hours longer than that which has already been adopted in nine out of ten codes approved to date. We get a 45 hour week so patched up with exceptions that even that limitation is misleading and meaningless. We get a minimum wage for this longer week, which in the towns under 100,000 is even less than that in the General Wholesale Code, and then on top of that we are asked to grant a differential for the south and a differential for junior workers so that even the minimum wage is not $13 but $10 per week.

I must confess, Mr. Administrator, my own feeling is, that the group which has prepared this code has not "played ball", and I am going to recommend that we also refuse to "play ball" until all these petty exceptions to the labor provisions to this code are removed and we are left with simply the flat wage and hour provisions which the industry is really interested in discussing.

Certain representatives of the Industry who have been in to see us have been most cooperative. Dr. Newcomb and Dr. Ostlund have presented us with all the statistics in their possession, including the original Questionnaires from which the summaries were compiled. They have been most helpful and patient in explaining to us details of the Industry, which we

could not otherwise have known, except through the long conferences which we had in my office. I cannot understand how, with such figures in their possession and with such competent advisers, the Code Committee could have drafted the Code Committee could have drafted the Code we have before us today. I wish also to add that in attacking the figures of Dr. Ostlund I am not attacking their accuracy and integrity. Mr. Kimball, of the Research and Planning Division, and myself, have simply drawn different conclusions and looked for different things than Dr. Ostlund.

That simply goes to show that although figures do not lie, they can show both sides of the same question.

I had thought after my last talk with Dr. Newcomb and Mr. Johnson that we had little more to discuss than the matter of a 45-hour week. I find now that we must also attack a great variety of special exceptions.

Suppose we get rid of the exceptions first.

You have asked for a differential in executive salaries in cities of less than 250,000 population. I suppose the idea for this came from the General Wholesale Code. But that is no way to draw up a code. What do your own facts on the industry show? In the smaller cities the percentage of wholesale drug employees receiving more than $35 per week is even greater than in the large towns. As a matter of fact, the proportion of higher salaried employees is a function of the size of the establishment rather than the function of the size

of a city. In the small establishments covered by Dr. Oetlund's questionnaire, the proportion of the employees receiving over $35 a week to all employees was betwen 25 per cent and 50 per cent. Most of the small establishments were in the cities of under 100,000. In the large establishments (those of over 100 employees), which were without exception in the cities over 500,000 population the proportion of employees receiving over $35 per week to all employees was 10 per cent to 20 per cent.

In other words, gentlemen, what the $35 exemption clause does is to give a loop-hole whereby the smaller wholesalers in the towns under 250,000 might exempt from 25 to 50 per cent of their employees on the grounds that they were executives. If you further reduce that limit to $30, such establishments can exempt an even larger percentage of their employees.

The second exemption for which I was surprised to see a group asking for a separate code request, was the unlimited hours for watchmen. God knows, the 56-hour week of the General Wholesale Code is long enough for anyone. I do not see how any Industry, which is interested in the public health can ask that no limit whatsoever be placed upon the hours of its watchmen, particularly in view of the fact that so many of these men are old and in crippled health.

The third exemption which is out of line with the general NRA program, is the 54-hour week proposed for outside delivery men, maintenance men, repair service men and installation men.

Yesterday afternoon I tabulated and compared the hours of warehouse employees and delivery employees in the 55 McKesson and Robins establishments, which were included in Dr. Ostlund's questionnaire. These questionnaires, as you know, provided answers for both the year 1929 and the year 1933 prior to the NRA. They are also tabulated by geographical areas and by size of cities. I found, however, that the average difference in warehouse hours and delivery hours was only two hours per week, both in 1929 and in 1933. In only one group, a group of eight wholesale houses in the eastern cities of 100,000 to 500,000 population, I found a difference of 15 hours, but in all the other groups the two-hour average seemed to be typical. In one or two cases the deliverymen's hours were even shorter than were those of the warehouse employees. I furthermore found that in only one group -- the same group of eastern wholesale houses, which I have mentioned before -- did the deliveryman average over 54 hours in 1933. There were none of them averaged in 1929.

In this group the average was 60.7 per week. Most of the others were below 50. This included twenty wholesale houses in the south by the way. In other words, Mr. Administrator, this Code proposes hours for deliverymen which are not only longer than those in the majority of codes approved to date, not only longer than deliverymen in this industry averaged in 1933 before anyone had thought of the NRA, but longer than

truck drivers averaged even in 1929. The industry figures indicate to me that it is not necessary to allow a differential of more than two hours per week for these outside employees and the Labor Advisory Board flatly rejects the 54-hour week proposed in this code.

Paragraph (b), (c) and (d) of Section 1, Article III all present additional exceptions to the maximum hour provisions. It is not our position that such overtime is never necessary in a wholesale drug house. We know that these more or less regular peaks do occur not only in the wholesale drug houses but in pretty nearly every other line of business. The monthly statement, the semi-annual inventory, and the occasional unpredictable crises which require "all hands on deck", without limit until the crisis is passed. We do not deny this necessity for flexibility in respect to this kind of overtime. We do object to the appearance of these exceptions in the code, however, in the form proposed because our experience not only for the last six months but all labor experience for the last 60 years tells us that the allowance of such tolerances without penalty for their abuse make any law, contract, or code of this kind absolutely unendorcible. We have been over this ground many times before in conference. We did not think when the Code appeared before us today we would still have to object to these three clauses. We have suggested the only practical method of allowing flexibility which the industry requires,

which would still protect employees and guarantee to the Administration the attainment of its aim of increased employment. That provision is a single overtime penalty of time and one-third for all hours in excess of the maximum. Hundreds of Code Committees have come down here to Washington in the last six months with the same type of exception and almost without exception they have admitted the logic of the Administration's position on this point. We have explained it many times before in conference with members of this trade. I do not see why we should have to go over this whole argument again, when the remedy is so simple and its extra cost to the employer, who is making a real effort to meet the NRA standard, is so slight.

I find in Section 2 one more thing which we shall have to attack before we can get at the real issues here. In this section we find that the trade proposes to allow itself the exemption of 30 per cent of all employees in the establishments of less than 20 employees and 10 per cent of all employees in establishments of more than 20. I have pointed out before that the percentage of employees receiving over $35 per week is much greater in the smaller houses than it is in the large. The reason for that is rather obvious, I believe. The smaller houses that hire more experienced people, men who know how to handle a greater number of items and are useful at a greater variety of occupations. The large houses on the other hand are able to subdivide their work and to routinize the functions

of their employees so that the proportion of employees over $35 per week is considerably less than those in the small houses. Nevertheless, these experienced employees in the smaller houses, who are receiving over $35 per week are by no means executives for the most part and we are, therefore, going to recommend, Mr. Administrator, that Section 2 be amended so that maximum exemption in a wholesale establishment, regardless of size, shall be not greater than one for every two employees exclusive of salesmen.

Now we come to the really important issue which is whether the Wholesale Drug Trade will do its share of reemployment on the 45-hour week proposed in the code; or perhaps it would be fair to restate that because representatives of the trade have already admitted that on the 45-hour week adopted at the time the PRA went into effect last July, the increase in employment has been less than 4 per cent. The trade makes the 45-hour week, I believe, a question of whether the public welfare is better served by the trade remaining on that schedule rather than reducing to 40 or less. A great deal is made of the argument that the public health is involved and it is because we have had to examine carefully into that argument that this code has been so long delayed. Briefly summarized, the argument is that the wholesale druggist is not his own master; that he cannot afford to neglect the demand for service made upon him by the retail druggist, who in turn must at all cost meet

ths demands of the sick. These demands by the retail druggist may come at any time of day and are unpredictable; many of them are emergency items and many of them are very small orders, less than dozen lots, making the cost of filling them very high. Where they came from retailers from a distance, outside the city in which the wholesale house is located, that company faces the problem of meeting mail and trade schedules. All these arguments are not cogent because all the service required join the last analysis required by a sick person. Nevertheless, Mr. Administrator, we must not be misled into thinking that either the wholesale or the retail drug business is run as a philanthorpic enterprise.

There are occasions when both retail and wholesale druggists do donate freely and generously of their goods and services to the public but on the whole it is extremely doubtful whether many individuals would remain in the business unless they expected to make a profit.

To make a profit in any business it is necessary to limit service to that which the public is willing to pay for. The retail druggist remains open later on the average than other retail establishments. That is only because demand for his services persists to a later time in the day than for most retail establishments and when the demand does drop off to a point where it costs him more to remain open, than the one or two orders which might come in might be worth, he closes.

He has to close regardless of whether there are people in the next block who may die for lack of the medicine which he has in his stock, if they have not sent for them early enough. As it is with the retail druggist, so it is with the wholesale druggist. If the retailer does not get in his order soon enough, it is just too bad. If it is an emergency order the wholesaler may fill it but the retailer must pay the extra cost involved in making the rush shipment. If he isn't willing to do so he doesn't get it and that is as it should be. There is even at the present time a definite closing time in practically all wholesale establishments. The retail houses which such establishments supply know that closing time and either get their orders in before or reconcile themselves to waiting. And the public, that is the sick public, waiting on the other end, well, if they can't get it at one drug store because the wholesaler has not supplied that store in time, they go into another, and if they can't get it there, or if they can't get in anywhere in town, well, they just have to put up with it.

Again, all the way up the line there are people who would be willing to accommodate him but who cannot afford to do so and still remain in business. And so, Mr. Administrator, although I am as interested as anyone else in the public health, I cannot give much weight to that argument by any enterprise run for profit.

Finally, of course, it must be pointed out that in reduc-

ing employees hours we are not placing any restriction whatsoever on the operating hours of wholesale drug establishments. They may remain open 24 hours a day if they so desire. As a matter of fact, if the wholesale drug business generally closed up on a 40-hour basis I do not believe that we would get very much of an increase in employment from this trade.

There is another argument, however, to which I have given much greater consideration because the problem which it presented appeared to me considerably more difficult to solve. That argument is, that in the larger houses it is general practice to divide up the 40,000 odd items which is customary for a wholesale drug house to stock into several departments or sections and to assign one or two order pickers to each of these sections.

With this type of set-up, shortening employees' hours without reducing operating hours, would require a second shift for each one of these sections, even though the extra shift might in each one be a matter of only two or three hours per day.

In other words, the shortened employees' work week would involve an increase of not one man, let us say, for every ten but one man for each man now employed or a 100 per cent increase in the staff of order pickers.

I am not at all sure that the problem is insoluble or that it would be necessary to take on one new order picker in each

section. As a matter of fact, I have been told that in those establishments which have come down from 56 hours per week to the 45 hour week that there has been some doubling up in the sections, the men most experienced being assigned to two sections during certain parts of the day when the traffic was light. Almost any efficiency expert or person experienced in management could suggest for an individual house a method of working out new shifts and stagger systems so that the same amount of work might be gotten out on a 40-hour week without an increase in labor cost of more than 20 per cent in most cases. I do not think that it is possible, it would in fact be presumptious brain trusting at its worst, to attempt to outline any general plan of stagger shifts. If the will and intelligence are there the thing can be done.

The problem of establishing shifts among the order pickers is, I think, the major problem involved in shortening the hours in this trade to those of the general wholesale code. For other employees, the office force, the packers, the receiving and shipping clerks, there does not appear to me to be any more of a case for a 45-hour week than there is in any other wholesale establishment.

I am, therefore, going to recommend to you, Mr. Administrator, that this Industry's petition for a 45-hour week be not allowed, that instead the trade be urged to go ahead and make a trial of the 40-hour week. After all, we are expecting

to reduce the 40-hour week to 30 or 35 in most industries before very long and it certainly would not be fair to such other industries to allow a trade, which has increased its employment only 4 per cent under the NRA to remain on a 45-hour schedule.

I think that is the whole story on hours.

The next issue is a question of minimum wages. Here again the trade is out of line. The proposal is that the same minimum shall apply as in the General Wholesale Code although the working week is five hours longer. It is also proposed that in cities under 100,000 the minimum be even $1 less than in the general wholesale code. Now, the Industry has presented very good figures on wages and hours. These figures do indicate that the average wage was almost exactly $1 less in cities under 100,000 than in cities over 100,000, both in 1929 and 1933. On the basis of these figures, however, I think we should have expected that this portion of the code would have proposed a $15 per week for cities over 100,000 and $14 for cities under 100,000 rather than the threefold differential which we have, and I recommend, Mr. Administrator, that Section (c) be stricken out.

Section (d) proposes a southern differential, one of the oldest "bugaboos" of the NRA. But here the figures presented by the Industry do not support the differential at all. The average weekly wage in 148 wholesale drug houses covered by

one of their surveys was as follows, in the four sections into which the country was divided:

In the West, which includes all of New England and the Middle Atlantic States $19.65; in the South, which included all the states listed in Section (d) $19.95 (that is 30 cents higher than in the North); in the Central States of what is usually known as the Middle West, the average was $17.35, or $2.60 less than in the south. In only one of the four sections was the average higher than in the south. In the Pacific and Rocky Mountain States the average was $20.70 per week. Now, those are not my figures, Mr. Administrator, but they are the figures supplied to us in a brief presented by members of the Industry. As you know, I have always held that the southern differential had not statistical basis in the wholesale trade. Certainly it has no basis in the wholesale drug trade.

Paragraph (f) presents another $2 differential which makes the minimum wage actually $11 in the north and $10 in the south. We have been all over this question before in the General Wholesale Code and as you know, it is one of the three points on which the Labor Advisory Board withheld its approval of that code. The amount of the differential is not as important as the length of the "learning" period. Our position was then and still is, that the maximum trial period for any employee, whether junior or otherwise, should not be more than three months. A "learning" period of one year during which two dol-

lare less than the minimum may be paid will, we are positive, tend to reduce wages above the minimum. And if that occurs, the Code is merely spreading the work.

I should like to call your attention, Mr. Administrator, to the fact that the last sentence in this paragraph would allow one sub-minimum employee to each five workers in any establishment of less than 20 employees and one for every 10 in any establishment of more than 20.

I want you to take particular note of this because another one of the arguments presented for the 45-hour week is, that the industry will find it difficult to find the experienced workers, which it must have, if forced to go on shorter hours. If 10 to 20 per cent of the employees may be paid even less than the minimum wages of this code, does it stand to reason that the Industry can really require employees of such intelligence and skill.

I am sorry to be criticizing this code, because I know the members of the Industry are of fine character and I hope they will believe me when I say that nothing I have said is meant to cast reflection upon them, but I must say that my final recommendation would be that the Code Committee be instructed to try again.

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Deputy Administrator Cameron: Next is Mr. C. A. Loring, of Gilman Brothers, Inc.

STATEMENT OF MR. C. A. LORING,

VICE-PRESIDENT, GILMAN BROTHERS, INC.,

BOSTON, MASS.

Mr. Loring: Mr. Chairman and gentlemen of the Board, during the numerous preliminary conferences which have been held between N. R. A. officials and the Code committees representing wholesale druggists, considerable surprise has been expressed at the number of separate individual items handled by the wholesale druggists. We are, therefore, filing at this time as Exhibits "D" and "E" two of the numerous price lists used in the drug industry.

Wholesale drug houses handle generally from forty to fifty thousand separate individual items. The minimum is rarely less than twenty-five thousand, and in one house surveyed by the Department of Commerce the total number of individual items was eighty-six thousand.

These various items consist of drugs and chemicals not proprietary some six thousand. Glandular and biological products, over three thousand; individual prescription proprietary medicines, about ten thousand; U.S.P. and N.F. preparations, about twenty-five hundred; proprietary medicines, as listed, about fifty-six thousand; other classifications bring the total listed in Exhibit "D", it is claimed, to over one hun-

dred thousand items. None of these lists is complete.

It is estimated that the total number of individual items belonging in these several classes manufactured and sold in the United States reaches one hundred and seventy-five thousand. An estimate has been made of the total number of laxative preparations. This appears to be approximately three thousand. There are 217 different kinds of tooth pastes included in one of these price lists. There are over 100 preparations of digitalis. A few minutes' perusal of one of these price lists, especially of the Pharmaceutical Section or Chemical Specialty Section, will at once impress the observer with the great complexity of the nomenclature of the wholesale drug business. No one individual employed in the wholesale drug business can possibly possess very much information about more than a very small percentage of all of the items handled in each wholesale house. As a result, the work must of necessity be divided and subdivided, and a definite responsibility placed upon specific individuals. Familiarity with the merchandise handled by the wholesale druggist can only be acquired through actual experience gained by serving apprenticeship and most careful training.

These facts have been carefully considered by our code committees in preparing the proposed code for wholesale druggists. They cannot be ignored. Employment in the wholesale drug business is an entirely different proposition from that

in any other industry in the country.

Mr. Chairman, it may be interesting to know that about two weeks since, it became necessary in my house because of serious illness to find a registered pharmacist capable of going into the wholesale drug business, and up to date we have not found anyone except some very old gentleman, of whom we already have plenty, and they are not of the proper kind.

Likewise, with a packer; when the house needed a packer, we have applied to every employment agency in the City of Boston, and we could not find a packer familiar with the drug business.

Deputy Administrator Dameron: The subject you were discussing is merchandise handled by the Wholesale Druggist, and I just wanted to go back to a point that someone made earlier in the day, to see if you remembered that, that 60 per cent of the items handled were essentially drug items, and I assume that 40 percent were non-drug items?

Mr. Loring: Dr. Newcomb, have you that? We have that covered, and I do not want to make a mis-statement. I think that he will be able to give it to you clearly.

Deputy Administrator Dameron: In other words, Dr. Newcomb, anything that is a question, we will hold for you?

Dr. Newcomb: Yes.

Deputy Administrator Dameron: Mr. H. H. Robinson.

STATEMENT OF MR. H. H. ROBINSON,

REPRESENTING THE HENRY B. GILPIN COMPANY,

BALTIMORE, MD.

Mr. Robinson: Mr. Chairman and gentlmen, this is a brief statement in connection with Exhibit F, on the character of Wholesale Drug sales, as shown by these invoices in the Exhibit.

The labor problems of the wholesale drug industry are affected not only by the character of the merchandise which the wholesale druggist distributes, but also by the conditions under which that merchandise is purchased by the retail druggist. It is a matter of amazement to those who are not familiar with the drug industry to discover the very small units in which wholesale druggists distribute. The one-twelfth dozen unit is a very common purchase by retail druggists. It may be said or thought by some that this small unit purchase is entirely due to bad purchasing habits on the part of the retail druggist. As a matter of fact, that is to a certain extent true.

On the other hand, particularly in recent years, the credit of retail druggists has been so very low that they have been compelled to buy in hand-to-mouth quantities many itsm. The other reason for small purchases is that the retail druggist seels certain items, particularly medicinal items, in very small quantities. The retail druggist cannot, therefore, properly stock these items in large quantities. If he carried on hand one unit sale of each of these itsms, it is as much as he should carry in stock at any time, and he should, there-

fore, reorder whenever he sells out the one unit that he carries. Should he carry more than such stock, the result would be that his stock would become old and stale, and in many cases its quality would deteriorate to such an extent that it should not be resold to the public. Thus, the public is very much better served by the maintenance of reserve stocks of such merchandise in the hands of the wholesaler rather than in the hands of the retailer. Also, many of the items ordered in small quantities are not regularly stocked by the retailer at all, but are ordered by him only when he receives a call for them. Thousands of these items he really cannot afford to carry in stock as they would only constitute an unnecessary investment while they are deteriorating on his shelves. The wholesaler is, therefore, rendering the retail druggist and the community which he serves a very distinct service in making these items available in small quantities when they are needed.

Exhibit "F" which I am filing herewith constitutes actual invoices of wholesale druggists or retail druggists. One lot represents about one-third of one wholesaler's single day's sales. This house made some 2,000 individual sales on this day. It will be noted that there are several hundred orders in this one lot which call for essential prescription specialties in one-twelfth dozen quantities. This, we know, means in many cases that the physician's prescription is not filled until

supplies are received from the wholesaler. In a very large degree the wholesaler of the day is endeavoring to carry on a wholesale operation, dealing in retail quantities which tremendously increases labor costs in operating the wholesale house. The enormous growth in the number of these individual items and the handling of them on a very narrow gross margin, together with excessive competition has been one of the major factors resulting in many wholesale houses today operating at a loss.

The welfare of the public andprofessional ethics demands that the wholesale druggist supply pharmacists, physicians, and hospitals with these remedial agents promptly as ordered.

In many cases these orders for one-twelfth dozen quantities represent important potent remedial agents that are essential to maintain life such as the digitalis preparations, insulin, antitoxins, etc.

Deputy Administrator Dameron: Mr. Robinson, has it been necessary for you to cut down on the orders to retailers, because of present conditions in the retail trade?

Mr. Robinson: Yes, very much.

(At this point another question was asked, but left off the record by direction of the Deputy Administrator.)

Deputy Administrator Dameron: Mr. W. H. Johnson.

STATEMENT OF MR. W. H. JOHNSON.

Mr. Johnson: Mr. Administrator and gentlemen, I am re-

quested to read the following statement, and present the exhibit for the record referred to.

The Drug Industry, probably because of its semi-professional character, is outstanding among general industries in the United States for the amount and volume of scientific research which it is continually carrying on that relates to its commercial problems. During the last few years intensive surveys have been made on the nature of the prescriptions written each year by the 150,000 practicing physicians of the country. These surveys have recently been completed, and we present the data as an exhibit in support of the provisions of the Code for the Wholesale Drug Industry.

The facts are that about one-third of the some 300,000,000 prescriptions written annually in the United States call for manufacturers' proprietary specialties. Surveys made since 1930 have included the analysis of approximately 500,000 prescriptions. The results of these surveys are set forth in Exhibit "G", and, we believe, demonstrate convincingly, first, the great complexity of the wholesale drug business which serves physicians, hospitals and pharmacists with all of these items, and second, the labor problem that it produces for the wholesaler

The organization of the personnel of the wholesale drug house, in order to efficiently and quickly move this large number of items, and to intelligently and safely bring the materials to the some 2,000,000 people in this country who are con-

stantly under the care of physicians, is a job of no small means. We feel confident that a full appreciation and understanding of this personnel problem on the part of N.R.A. officials would immediately bring a unanimous approval of the provisions in the proposed code for wholesale druggists which relate to labor and wages. We ask a careful examination of Exhibit "G".

(The exhibit referred to has been filed in the office of the Deputy Administrator.)

Deputy Administrator Dameron: Next is Mr. W. W. Gibson.

Dr. Newcomb: May I present Exhibits H and J on behalf of Mr. Sherman, of the Des Moines Drug Company, Des Moines, Iowa, who was unable to be here, although he expected to, but had to remain home on account of illness.

We have the following statement in connection with Exhibit H:

The accompanying telegrams are presented as an exhibit to indicate the opinion of the service wholesale druggists of the United States on the maximum work week. Arguments are presented in the form of a brief elsewhere. This is only supporting evidence from those wholesale druggists of the United States who carry complete stocks of retail drug needs and who are under obligation to render complete service to the retail drug trade.

The wholesalers who have participated in this exhibit are

service wholesale druggists, not mere wholesalers concentrating on a limited number of lines which can be handled merely as commodities. Service wholesalers must fill orders on the day received in order that there may be no delay in supplying public health needs of emergency items. They cannot postpone filling orders received on heavy days till some lighter day. Service wholesale druggists must, therefore, maintain a staff of employees adequate to take care of orders received on the heaviest days irrespective of how light may be the work on other days.

These service wholesale druggists also know that it is impossible to adjust the length of the working day for heavy or light sales. Even if the wholesaler does operate on a certain number of hours a week, he cannot adjust the hours of the several working days because of the fact that even on heavy days orders must be out at a certain hour in order to reach the transportation terminals in time for trains or trucks.

In view of these facts, not evident to those who are not familiar with this type of business, service wholesale druggists know full well how heavy will be the burden of an ill-advised adjustment of working hours that does not take these facts into consideration.

These statements, forwarded to the Industrial Advisor for the Wholesale Drug Code, constitute a very definite expression of opinion on the part of service wholesale druggists to

the effect that a maximum working week shorter than proposed would constitute an undue and unwarranted hardship.

(The telegrams referred to are as follows:)

WESTERN UNION TELEGRAM

H J Ostlund

Carlton Hotel

Washington D C

Thirty three wholesale druggists from Alabama Mississippi Louisiana Tennessee Arkansas Texas and Georgia in conference have just concluded a frank and honest discussion of the suggestion that they go on a forty hour week basis STOP They sincerely expressed the view that forty hour week would seriously interfere with prompt supply of essential drugs and medicines to drug stores and the public STOP It is further their view that because of great number of items and small retail stocks that wholesale drug business is not to be considered on same basis as other wholesalers whose customers needs are not so urgent as in drug business

E L Newcomb Roosevelt Hotel

The above telegram sent by Sec'y E. L. Newcomb of the National Wholesale Druggists' Association on the unanimous request of the wholesale druggists mentioned above and represented in meeting assembled.

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WESTERN UNION TELEGRAM

WESTERN UNION TELEGRAM

H J Ostlund

Care Hotel

Twenty eight wholesale druggists in South Atlantic Area have carefully considered suggestion for 40 hour week and are emphatic that such a requirement would work an undue hardship on them and seriously hamper prompt supply of essential drugs and medicines to retail drug trade and public

E. L. Newcomb.

The above telegram sent by Sec'y E. L. Newcombg of the National Wholesale Druggists' Association on the unanimous request of the wholesale druggists mentioned above and represented in meeting assembled.

****

WESTERN UNION TELEGRAM

H J Ostlund

Carlton Hotel

Washington D C

Twenty wholesale druggists Ohio Valley territory including Ohio Kentuck Indiana Michigan and West Virginia have today considered the question as to whether or not they can operate on forty hour week basis STOP They are unanimous that they could not do so and continue to maintain their prompt efficient service to hospitals pharmacies and others in distribution essential drugs and medicines They point out that the suggestion

reduction from forty five to forty hours per week would according to recent accurate survey add not more than one hundred employees in whole drug business United States STOP They also express the view that they have moral obligation to maintain quick distribution of medicinal agents at all times to fully protect and conserve public health STOP A survey of the employment situation among wholesale druggists this area shows no former employees are now out of employment and also that most wholesalers have kept practically all help during period of depression although some have been working only part time.

R. L. Hanson

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WESTERN UNION TELEGRAM

H J Ostlund

Carlton Hotel

Washington D C

Eighteen wholesale druggists of the Upper Mississippi Valley area have just concluded a discussion on the question as to whether or not they could operate on a forty hour week basis and render the essential service demanded of them by the medical and pharmaceutical professions STOP On account of the technical nature of much of their business and because they cannot draw in new help adequately trained on short notice and because of the present financially embarrassed condition of many retailers which forces them to buy in very small

quantities and frequently thus calling for excessive deliveries by the wholesaler and also because there are no unemployed in this area who formerly worked for wholesale druggists as all help has been kept by wholesalers or nor have other positions therefore these wholesalers feel that the temporary hour and wage schedule for wholesale druggists providing a forty five hour work week should be approved for the permanent code.

E. V. Pollack Secry Miss Valley Club

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Dr. Newcomb: May I also file with this Exhibit H a telegram just received, from the W. J. Gilmore Drug Company, Pittsburgh:

WESTERN UNION TELEGRAM

1934 Mar 15 AM 10 22

Gb 74 59 DL 3 Extra - Pittsburgh Penn 15 100 5A

Dr E L Newcomb, Secretary

National Wholesale Druggists Assn - Sun Parlor

Washing Hotel Wash DC-

If we are compelled to go on forty hour week we will be forced to reduce our service to druggists hospitals etc to next day delivery will reduce number of employees five percent if we did not fill orders for less than half dozens would also require less help and put great hardship on small retailers.

W J Gilmore Drug Co J B McCormick President & Treasurer.

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In connection with Exhibit J, I desire to file as Exhibit J a letter addressed to the Labor Advisory Board by C. L. Newcomb. In this letter the percentage of different employees in a wholesale drughouse engaged in different activities is set forth. In addition to the facts presented showing that 77% of the personnel of a typical wholesale drug house represents employees either specially trained or expert help, as set forth, I desire to indicate my own experience in putting on new help which is as follows---and this was put in here by one of the wholesalers that could not be here, who wanted to express his own opinion.

Exhibit J also includes two very important letters from wholesale druggists, both of which emphasize the grade dangers to the public and the economic impossibility of wholesalers operating under a code providing a shorter work week than proposed.

(The papers comprising Exhibit J are as follows:)

THE NATIONAL WHOLESALE DRUGGISTS' ASSOCIATION INC.

51 Maiden Lane, New York, Feb. 24, 1934.

Mr. Joel Berrall,

Labor Advisory Board,

Room 3309,

Department of Commerce Bldg.,

Washington, D. C.

Dear Mr. Berrall:

We are enclosing herewith personnel breakdown submitted

by three additional wholesale drug houses. The report submitted by No. 9 includes comment by the wholesaler. In studying tables submitted by No. 9 the following additional recapitulation is interesting:

The total number of employees in this house is 200. Forty-eight (48), not including executives, or approximately 25%, are paid over $30.00 a week. Of these 48, sixteen, or 33 1/3%, represent expert help. Twenty-one (21), or about 45%, represent trained help. Eleven (11), or about 22%, represent other help.

Seventy-five (75) employees, or approximately 37½% of the total number in this house, are paid between $20.00 and $30.00 per week. Of these 40, or about 53%, are expert help. Fifteen (15), or 20%, are trained help, and 20, or about 27%, not specially trained help.

The remaining employees, 77 in number, representing about 37½% of the total, receive between $14.00 and $20.00 per week. Of these, 23, or approximately 33 1/3%, are expert help, 37, or approximately 50%, are specially trained help, and 15, or approximately 20%, represent untrained help.

Summarizing all groups, we find that 81 employees, or 40.5%, represent expert trained help. Seventy-three (73), or 36.3%, represent specially trained help, and 46, or approximately 33%, represent ordinary help.

This firm does not break down the exact work and duties

to show the subdivision of activities of some of the help, however, the reports included for houses Nos. 7 and 8 show this, as did the earlier ones that I gave to you.

I hope to get down to Washington next week to further consider this matter with you.

Cordially yours,

(S) E. L. Newcomb

Executive Vice-President.

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PERSONNEL OF WHOLESALE DRUG HOUSE LOCATED IN METROPOLITAN NEW YORK AREA DOING VOLUME IN EXCESS OF $3,000,000 PER YEAR.

The subjourned list shows the number of employees in our various departments. Many of these employees are highly and some uniquely specialized in their attainments, as for instance pricers, buyers, and key men in each department. Aside from packers, some bookkeepers and messengers, all employees are more or less specialized as even to develop a competent stock picker in a small section of the proprietary medicine department, takes from six months to one year.

In consequence, it is not possible to procure at a moment's notice, employees to fill most of our positions, as it is to procure competent bookkeepers, chauffeurs, packers, etc. As a result, we never have laid off any help because of slack season, hard times, etc., so that, while remuneration is modest, steady employment with pay for holidays, vacations and

absence for sickness prevails. One result of this policy is that our total number of present employees is identical with that of 1931, although the dollar volume of business is approximately 15% reduced. Also as a consequence, our hours of labor are shorter during slack seasons and longer during the winter months when epidemic or quasi-epidemic conditions are of frequent occurrence.

Another factor which renders a stable employment imperative, is the necessity of shipping all orders the same day as received. City business, where a multitude of doctors are writing prescriptions for innumerable products, some domestic and some foreign, makes it impossible for the average struggling druggist to stock all items for which he has occasional calls. In consequence, he must depend upon the wholesale druggist and must have same-day deliveries. As a result a much larger force is required to handle a given volume of business than if orders were merely handled in rotation and without the necessity of finishing a day's work.

A consequence of abolishing same day service would be the laying off of at least half of our chauffeurs, and probably 10 to 20% of our entire force, as we would and would work by the clock rather than the day's work. This would enable us to keep uniformly busy all day long, rather than to have rush and slack hours as at present.

Finally, competitive conditions together with reduced vol-

ume of sales, frequently amounting to a 50% loss as compared with peak years, have rendered it necessary for the retail druggist to curtail buying to a minimum, resulting in daily orders of small value but nevertheless absolutely essential to his existence. This places a great burden upon the wholesaler, reducing the possibility of operating at a profit to a minimum, as obviously the cost of shipping an order of $10.00 value or thereabouts, is about the same as shipping an order of $20.00 value, both of which figures represent approximate averages for 1934 and 1931 respectively. Were the retail druggist compelled to order once or twice a week, it would spell the doom of a great number and would likewise greatly reduce the number of help required by the wholesaler. More important, it would obviously militate against the sick and suffering in the delay which would ensure from any curtailment of service.

A local condition of competition with the "destructive 10%", to quote President Roosevelt, (but which is a destructive 20%, at least, in this territory), with peddlers, short line and gyp-jobbers, who know no laws or codes, would make any added expense such as a further reducing of the hours of labor, would involve nothing short of a calamity to us and to the 1,200 to 1,300 retail druggists whom we serve and to the seriously ill and sick in the territory we serve.

PERSONNEL REQUIRED

Executives: 4 (President, V-Pres. & General Mgr., Treasurer) (and Secretary)

	Over $30 per Week	$20.-$30. per Week	$14.-20 per Week
**Pricing Department	6	2	--
*Clerical	2	8	16
*Credit Department	1	1	--
**Purchasing Department	5	1	2
" " Messengers	--	--	6
**Inside Sales Clerks	--	10	6
*Outside Salesmen	13	--	--
*Shipping Department-Clerical	1	3	1
" " -Chauffeurs	6	7	--
" " -Garage	2	2	--
**Receiving Department	--	3	--
**Checking Department	2	12	4
Packing Department	--	8	7
**Narcotic Department	1	--	1
**Drugs & Chemicals	--	5	5
**Pharmaceuticals	--	4	--
*Proprietary Medicines	1	3	12
**Laboratory	2	3	7
Building Maintenance & Care	3	3	--

**Expert help required

*Orderly conduct of business in accurate manner requires trained help in these departments.

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March 7, 1934 House No. 10

PERSONNEL OF THE WHOLESALE DRUG BUSINESS EXCLUSIVE OF OUTSIDE SALESMEN AND DELIVERY MEN

The following data is supplied by the President of a wholesale drug house in a city of the North Central United States of over 250,000 population. This wholesale drug house did an annual volume in 1933 of approximately $3,000,000.

The following table classifies the entire personnel of the house as follows:

I. Those receiving over $30 per week, including

A. Those in executive capacity, and

B. Those non-executive

II. Those receiving under $30 per week

The titles of those actually being used by these houses and the number of employees indicated is the number actually employed for each of the positions.

I. OVER $30 PER WEEK

A. Executive

Title	Number
President	1
Vice-President & General Manager	1
Secretary & Superintendent	1

B. Non-Executive

Accountant	1
Pricers	3
Cashier	1

B. Non-Executive (Continued)

Title	Number
Bookkeeper	2
Credit Manager	1
Drug Buyer	1
Proprietary Buyer	1
Sundry Buyer	1
Sales Manager	1
Claim Department Head	1
Drug Department Foreman	1
Sundry Department Foreman	1
Cigar Department Foreman	1
Pharmaceutical Picker	1
Order Assembly Clerk	1
Printing Department Foreman	1

II. UNDER $30 PER WEEK - First Floor

Sales Department Stenographer	1
Phone Order Takers	4
Posting Clerks	2
Bookkeeper	1
Credit Department Stenographer	2
Buying Department Stenographer	2
Buying Records Clerk	1
Invoice Checker	1
Switch Board Operator	1

II. UNDER $30 PER WEEK - First floor	Number
Claim Department Stenographer	1
Utility Stenographer	1
Statistical Comptometer Operator	3
Order Assembly Clerk	1
Billers-Entry Clerks	6
Comptometer Operators	2
Telephone Operator	1
Filing & Mailing Clerk	2
Utility Stenographer	1
Second Floor	
Scanner	1
Assistant	1
Errand Boys	3
Order Pickers	15
Checkers	5
Packers	5
Stock Clerks	2
Shipping Department	
Shipping Clerk	1
Shipping Clerk Assistant	1
Receiving Clerk	1
Receiving Clerk Assistant	1
Laboratory Clerk	4
Printing Department Clerks	3
Night Watchman & Janitor	1

511 Arch Street, Philadelphia, Pa., March 7, 1934.

Dr. E. L. Newcomb

c/o N. W. D. A.,

61 Maiden Lane,

New York, N. Y.

Dear Mr. Newcomb:

Following my conversation with you yesterday regarding the proposed code for the wholesale drug trade, there are at least two items in the copy you gave me (or rather proposals) that are objectionable.

The first is, cutting down hours of labor. It seems to me the entire idea of such legislation should be reversed. If price protective measures had been adopted such as the Capper-Kelly bill there would be no trouble with us, but without protection to prices competition has reduced our returns far below cost. For three years past this business has been conducted at a loss solely because I desired, if possible, to carry our employees through the depressions. There has been an aggregate loss of about 20% of our capital, and our force is reduced to a skeleton. If further demands are made upon us in the way of increasing employees and additions to payroll, we will be compelled to lock our doors and turn out about seventy-five people, and cut off a payroll of over $1500.00 per week.

There is absolutely no reason why we should be expected to take such a course, and as we stated above if the process were

reversed and prices protected, the entire matter would clear itself up in a reasonable time.

The other point is the provision that an accounting system be established for cost finding, etc. This would be almost duplicating bookkeeping and in itself would impose a cost upon the business that is prohibitive. Knowledge of results in other matters makes it clear to us that to consolidate all the statistics obtained would be such an enormous undertaking that it would be obtained at a period when it would be of little use.

Why the most troublesome, expensive and complicated ideas should be advanced, and insisted upon, to the exclusion of one simple act thatwould enable us to make some profit, is too much for my comprehension.

The question is.....do we go ahead or shut up?

Very truly yours,

SHOEMAKER & BUSCH, INC.

By..Miers Busch, President.

P. S. And while the subject is up for discussion there is one point I have not seen mentioned, and that is the demand on the part of the retail trade for wholesalers to pay freight on shipments outside of the delivery limits covered by their own trucks.

Deputy Administrator Dameron: Thank you, Mr. Newcomb.

Mr. W. W. Gibson.

STATEMENT OF MR. W. W. GIBSON,

PRESIDENT, MCKESSON-GIBSON-SNOW COMPANY

ALBANY, N. Y.

Mr. Gibson: Mr. Deputy Administrator, this is a statement in connection with Exhibit K.

Statement in connection with Exhibit "K" by

W. W. Gibson, Pres., McKesson-Gibson-Snow Co., Albany, N. Y.

The maintaining of a properly balanced labor force is one of the most difficult problems that the service wholesale drug ist has to face. This is due largely to the fact that the number of different tasks in a service wholesale drug house is numerous, and in fact, almost as great as the number of employees, and that for a large percentage of these tasks, special training and adaptation are necessary. When it becomes necessary to make adjustments, therefore, in personnel, the wholesale druggist faces a type of problem that is not faced in many other industries. This can best be illustrated by referring to ordinary clerical help.

If an employer has five stenographers and if he needs 20% additional service, all that is necessary is that he get one more stenographer. If, on the other hand, a wholesale druggist has two pricers and if additional pricing help is necessary, even if only a 20% additional pricing help, it is necessary for him to have another trained pricer made available for that job. This means that he must increase his personnel capable of handling that task, not by the 20% additional service required, but by 50%. For that reason adjustments in personnel in wholesale drug houses are exceedingly difficult. Particularly is this true in small houses where there may be only one pricer, and where, if he is

temporarily ill, it becomes necessary for one of the executives to take over that task for the time being. If a permanent increase on the job is necessary, of course, it means the hiring of another person competent to do the pricing, and who is, therefore, in a position to demand a pricer's wages. This would become 100% increase in a case of that sort.

If it were true in the case of wholesale druggists, as it is true in the case of many other industries, that the mere extent of personnel could be made proportionate to the adjustment in hours, or other working conditions, the burden might not be so great. The adjustments could be made with a minimum of difficulties. The fact is, however, that when adjustments are made, reducing the hours of individuals the increased cost in many cases is far more than proportionate to the increased requirements occasioned by the adjustment. The wholesale druggist must, therefore, maintain a staff of individuals, each one adjusted and trained to his particular job adequate to care for his business at the time of peak load which usually occurs once each week. That means that if he is forced to take on additions to his staff, those additions which are required to serve during peak load periods must, according to the policies that have been established in the wholesale drug industry, be carried over the off peak periods of the week as well.

It is also important in this connection to mention the

fact that in many houses there are peak periods during the day such, for instance, as one peak the early part of the forenoon and another peak later in the afternoon, and a period in between during which activities are relatively slack most of the time.

Under the provisions of the N.R.A., and also in accordance with the time-honored policies of service wholesale druggists, the employees are carried over the slack period of the day without being asked to take more than the normal noon hour recess. If it were possible, and if it were the fair thing to do, wholesale druggists could, of course, economize considerably in wages by having part time employees work for only thepeak periods as they occur twice a day. Such a policy, however, is repugnant to wholesale druggists and would not, I believe, be countenanced by the N. R. A. The only alternative would be the hiring of part-time employees who would come in to serve whenever possible for one of the peak periods during each day or, if they were otherwise unemployed, could come in only during the peak days of each week. This is a policy, however, which the wholesale druggists would not adopt except under protest or compulsion.

There is ample evidence in briefs submitted in connection with this hearing, however, that there are practically no trained wholesale drug employees at present available for such part-time work. The experience of sundry members of the

industry in attempting to fill, on short notice, positions made vacant by death, is evidence of this fact.

It has been the policy of service wholesale druggists to replenish their personnel forces by employing young men or women as apprentices or learners and gradually working them into responsible specialist positions as they gave evidence of their competence by response to training and of their integrity by observation over an extended period of time. A sudden drastic increase of personnel would of necessity under these circumstances cause unlimited confusion, and tremendous inefficiency in the performance of most tasks in wholesale houses.

It is particularly important to note that during rush hours, and during peak days, incompetence must not exist. That is the reason that wholesale durggists have uniformly carried a staff of employees substantially in excess of their average needs. Any drastic reduction of this staff through drastic reduction of hours would of necessity, under the present conditions, absolutely require a complete reorganization of the methods of operating wholesale drug houses, and a very definite reduction in the quality of the service that the wholesale druggist has felt proud to render to the trade. Such an adjustment, if forced upon the drug trade, would obviously not lead to increased employment, but would force wholesale druggists to adopt exactly the opposite policy. This, frankly, wholesale druggists do not desire, and we are

confident that it would not be in the interests of the public whom they serve, and that it would not be consistent with the spirit of the National Recovery Act, even if it were made consistent with the letter thereof.

We are, therefore, requesting that the administration study carefully the exhibits of personnel analysis which we are herewith submitting. We are confident that a thoughtful perusal of these situations will be most revealing to the administration and will, as a consequence, impress upon it the necessity of considering carefully and thoughtfully the technical problems involved in the handling of personnel in the wholesale drug industry which problems are not of the type ordinarily involved in the handling of labor in those industries where there are many employees of well-established crafts which can be recruited from the open labor market.

(The papers accompanying this statement are as follows:)

House No. 1

PERSONNEL OF THE WHOLESALE DRUG BUSINESS EXCLUSIVE OF OUTSIDE SALESMEN AND DELIVERY MEN.

The following data is supplied by the president of a wholesale drug house in a city of Central New York with a population of under 250,000. This house did an annual volume in 1933 of approximately $1,000,000.

The following table classifies the entire personnel of the house as follows:

I. Those receiving over $30 per week, including

A. Those in executive capacity, and

B. Those non-executive;

II. Those receiving under $30 per week.

The titles are those actually being used by these houses and the number of employees indicated is the number actually employed for each of the positions.

I. OVER $30 Per WEEK

A. Executive

Title	Number
President	1
Vice-President and General Manager	1
Secretary and Sales Manager	1

B. Non-Executive

Title	
Credit Manager	1

Buyer	1
Warehouse Superintendent	1
Shipping Clerk	1
Accountant	1
Head Pricer	1
Assistant Pricer	1
II. UNDER $30 per WEEK	
Title	
Office	
Cashier	1
Posting Clerk	1
Credit Stenographer	1
Bills Payable Clerk	1
Purchase Records Clerk	1
General Manager's and Sales Manager's	
Stenographer	1
Phone Operator	1
Phone Order Clerks (Each from own list)	2
City Desk or Call Order Clerk	1
Claims Clerk (Returned Goods)	1
Billers - Girls	2
Statistical Clerk	1
Mail Boy	1
Errand Boy	1
Sundry Foreman	1

Sundry Picker 8-10 M items	1
Porter Shipping Room	1
Elevator Man	1
Truck Drivers	3
<u>Second Floor General Stock</u>	
Receiving Clerk expert	1
Packers Expert	2
Checkers	2
Order Pickers	
Narcotics	1
Pharmaceuticals	1
Chemicals	1
Proprietaries and Cosmetics	2
<u>Third Floor</u>	
Bulk and Full case Goods Stock Man	1
Wets and Drys, Assemblers and Packers -	
Drugs and Chemicals Expert	2
<u>Fourth Floor</u>	
Full Case Goods Stock Man	1
<u>Basement</u>	
Oils, Heavy Chemicals, Paints, Stock	
Man Expert in General Charge of Basement	1

Houses No. 2 and 3.

NOTE: This same concern operates two other houses, each doing somewhat more business, but the personnel as shown

for this house is typical of the other two houses. The number of employees is almost identical in each of the three houses.

House No. 4

PERSONNEL OF THE WHOLESALE DRUG BUSINESS EXCLUSIVE OF OUTSIDE SALESMEN AND DELIVERY MEN

The following data is supplied by the president of a wholesale drug house in a city of eastern New York under 250,000 population. This wholesale house did an annual volume in 1933 of approximately $2,500,000.

The following table classifies the entire personnel of the house as follows:

I. Those receiving over $30 per week, including

A. Those in executive capacity, and

B. Those non-executive;

II. Those receiving under $30 per week.

The titles are those actually being used by these houses and the number of employees indicated is the number actually employed for each of the positions.

I. OVER $30 per WEEK

A. Executive

Title	Number
Chairman of Board and President	1
Vice-President and General Manager	1
Secretary, Treasurer and Credit Manager	1

Assistant Secretary	1

B. Non-Executive

Title	
Office Manager	1
Head Pricer	1
Buyer Head	1
Proprietaries Buyer	1
Chemicals Buyer	1
Superintendent	1
Shipping Clerk	1
Sundry Foreman	1
Accountant	1
Assistant General Manager	1
Scanner	1

II. UNDER $30 Per WEEK

Title	
General Manager's Stenographer	1
Invoice Checker	1
Buying Records Clerk	1
Apprentice Buyer	1
Switch Board Operator	1
Claims Department Stenographer	1
Utility Stenographer	1
Credit Department Stenographer	1
Phone Order Takers (Each with separate list)	3

Statistical Stenographers	on sales	1
	on gross profit	1
Bills Payable Clerk		1
Order Assembly Clerk and Order Register		1
Comptometer Operators		2
Correspondence File Clerk		1
Sales File Clerk		1
Cashier		1
Assistant Accountant		1
Posting Clerks	on charges	1
	on credits	1
Claims Department Assistant		1
Call Order Clerk		1
Mail Boy		1
Errand Boy		1

Full Package and Shipping

Full Package Stockman	1
Full Package Receiving Clerk	1
Bill of Lading Clerk	1
Porters	2
Drivers	4

Second Floor

Narcotic Picker	1
Pharmaceutical Picker	1
Drug and Chemical Picker	1
Own Goods Picker	1

Second Floor (cont'd)

Pickers General Proprietary Goods	
Section 1	1
Section 2	1
Section 3	1
Section 4	1
Wets and Drys Assembly and Packing	2
Checkers	3
Packers	3
Stock Clerks	
Drugs and Pharmaceuticals	1
Proprietaries and Cosmetics	1

Third Floor

Display Room	1
Pickers	
Valuable Goods	1
General Line	
Section 1	1
Section 2	1
Section 3	1
Receiving Clerk	1
Fourth Floor: Full Package Clerk	1
Full Package Clerk	1
Fixture Man	1
Basement: Heavy Chemicals	1
Oils	1

House No. 5.

PERSONNEL OF A WHOLESALE DRUG BUSINESS EXCLUSIVE OF OUTSIDE SALESMEN AND DELIVERY MEN

The following data is supplied by the president of a wholesale drug house in a city of eastern New York under 250,000 population. This wholesale house did an annual volume

in 1933 of slightly more than $1,250,000.

The following table classifies the entire personnel of the house as follows:

I. Those receiving over $30 per week, including

A. Those in executive capacity, and

B. Those non-executive;

II. Those receiving under $30 per week.

The titles are those actually being used by these houses and the number of employees indicated is the number actually employed for each of the positions.

I. OVER $30 PER WEEK

A. Executive

Title	Number
President	1
Vice-President	1 - Inactive
Secretary	1
Treasurer	1

B. Non-Executive

Title	
Credit Manager	1
Accountant	1
General Buyer	1
General Manager	1
Sales Director	1
Sundry Buyer	1

Traffic Manager	1
Fountain and Fixture Manager	1
Head Pricer	1

II. UNDER $30 Per WEEK

Title	
Assistant Pricer	1
Assistant Accountant	1
Accounts Payable Clerk	1
Assistant Accounts Payable Clerk	1
Price Extender	1
Assistant Price Extender	1
Switch Board Operator	1
Town Phone Order Takers (Each has a separate list of customers)	3
Buyers Clerk	1
Records Clerk	1
Filing Clerk	1
Billing Clerk	1
Assistant Credit Manager	1
Mail Boy	1
<u>Paint Department</u>	
Foreman	1
Assistant Foreman	1
<u>Manufacturing Department</u>	
Foreman	1
Assistant Help (Laboratory Work)	3

Sundry Department

Record Clerk	1
Pickers	2

Shipping Department

Assistant Traffic Manager	1
Freight Handlers	3

Fountain and Fixture Department

Stenographic Clerk	1
Fountain and Fixture Repair Man	1

Order Department

Foreman and Narcotics Checker	1
Pickers Proprietary Medicines	
Section 1	1
Section 2	1
Section 3	1
Section 4	1

Drug Room

Foreman	1
Pickers	
Dry Goods	1
Chemicals	1
Parcel Post Clerk	1

Chemical and Pharmaceutical Room

Foreman	1
Helper	1

Packing Department

Packers	4

Storage Lofts (Full Package Dept.)

Storage Lofts (cont'd)

Foreman	1
Helper	1

House No. 6

PERSONNEL OF THE WHOLESALE DRUG BUSINESS EXCLUSIVE OF OUTSIDE SALESMEN AND DELIVERY MEN

The following data is supplied by the president of a wholesale drug house in a city of central New York under 250,000 population. This wholesale house did an annual volume in 1933 of slightly more than $1,000,000.

The following table classifies the entire personnel of the house as follows:

I. Those receiving over $30 per week, including

A. Those in executive capacity, and

B. Those non-executive:

II. Those receiving under $30 per week.

The titles are those actually being used by these houses and the number of employees indicated is the number actually employed for each of the positions.

1. OVER $30 per WEEK

A. Executive

Title	Number
President and Patent	1
Medicine Buyer, Secretary and Treasurer and Sundries Buyer	1

B. Non-Executive

Title	
Assistant Patent Medicine Buyer	1
Pricing Clerks	3
Credit Manager	1
Cashier	1
Credit Clerk	1
Laboratory Manager	1 R.PH.

II. UNDER $30 Per WEEK

Title	
Chemicals Buyer	1
Pharmaceuticals Buyer	1
Narcotic Manager	1
Order Checkers	2
Order Pickers	
Section 1	1
Section 2	1
Section 3	1
Section 4	1
Section 5	1
Section 6	1
Section 7	1
Section 8	1
Parcel Post Clerk (30 to 40 P.P. orders per day)	1
Stock Clerk Patent Medicines and Inventory	1
Order Packers	3

Sundry Department

Order Clerk First Floor	1
Order Clerk Second Floor	1

Sundry Department (cont'd)

Sundries Room Salesman	1
Sundries Buyer Stenographer	1
Switchboard Operator	1
Phone Order Takers (Each has a separate list of customers)	2
Credit Manager Assistant	1
Cashier Assistant	1
Bills Payable Clerk	1
Bookkeeper	1
Assistant Bookkeeper	1
Bill Clerks Country	1
City	1
Credit Manager Stenographer	1
President's Stenographer	1
Order Desk City Clerk	1

Shipping Department

Shipping Clerk	1
Assistant Shipping Clerk	1
File Clerk	1
Full Package Department Clerk in charge	1

Basement

Clerk in Charge (Heavy oils, bulk chemicals)	1

Drug Department

Dry Drugs, etc. Manager	1
Full Case Stock Manager	1

Powdered Goods	Order Clerk	1
Paint Department	Manager	1

House No. 7

February 23, 1934.

PERSONNEL OF THE WHOLESALE DRUG BUSINESS EXCLUSIVE OF OUTSIDE SALESMEN AND DELIVERY MEN.

The following data is supplied by the president of a wholesale drug house in a city of Central Indiana over 250,000 population. This wholesale drug house did an annual volume in 1933 of slightly more than three million dollars.

The following table classifies the entire personnel of the house as follows:

I. Those receiving over $30 per week, including

A. Those in executive capacity, and

B. Those non-executive

II. Those receiving under $30 per week.

The titles are those actually being used by these houses and the number of employees indicated is the number actually employed for each of the positions.

I. OVER $30 per WEEK - First Floor

A. Executive

Title	Number
President	1
Vice-Presidents (2 of whom are department managers- Sundries and Candies)	3

Secretary, Treasurer and Credit Manager	1
Assistant Credit Manager	1
B. Non-Executive	
Cashier	1
Assistant Cashier	1
Buyers (1 Proprietary - 1 Chemical)	2
Superintendent	1
Auditor	1
Head Pricer - Country	1
Assistant Pricer - Country	1
Head City Pricer	1
Assistant City Pricer	1
II. UNDER $30 PER WEEK - First Floor	
Shipping Clerk	1
Assistant Shipping Clerk	1
Posting Clerk - Country	1
Posting Clerk - City	1
Credit Stenographer.	1
Bills Payable	1
Secretary and Treasurer Stenographer	1
President's Stenographer	1
Three Vice-President's Stenographers	3
Buyers' Stenographers	3
Telephone Operator	1

Head City Telephone Order Clerk	1
Assistant City Telephone Order Clerk	2
City Desk	1
Bill Clerks (girls)	4
Errand Boy	1
Mail Boy	1
Buy-Out Boy	1
Receiving Clerk	1
Assistant Receiving Clerk	1
Porter	1
Night Watchman	1
CIGAR DEPARTMENT	
Foreman	1
Packer	1
Elevator Man	1
Truck Drivers - City	4
Truck Drivers - Country	3
Second Floor	
PACKAGE MEDICINES AND PROPRIETARIES	
Foreman	1
City Orders	1
Desk Orders	1
Country Orders	1
PHARMACEUTICALS	
Foreman	1

Narcotic Checker	1
Pharmaceutical Checker	1
Chemical Checker	1
COUNTRY ORDERS	
Country Packers - Experts	3
Country Checkers - Experts	3
CITY ORDERS	
City Checkers - Experts	2
LISTING AND MAIL DECK Girls	3
<u>Third Floor</u>	
TOILET, COSMETICS, LABORATORY	
Foreman	1
Order Pickers	3
CANDY Order Picker	1
<u>Fourth Floor</u>	
CRUDE DRUGS	
Foreman	1
Order Picker	1
FULL PACKAGES Foreman	1
LABORATORY	
Registered Pharmacist	1
Wrapper Girls	3
LIQUOR AND ALCOHOL DEPARTMENT Foreman	1
RESTAURANT FOR EMPLOYEES Cook	1
DRUG STORE MAINTENANCE DEPARTMENT Experts	2

BASEMENT

Oils, Heavy Chemicals, Paints, Bottles, Full Cases

Foreman	1
Order Pickers	2

House No. 8

February 23, 1934.

PERSONNEL OF THE WHOLESALE DRUG BUSINESS EXCLUSIVE OF OUTSIDE SALESMEN AND DELIVERY MEN

The following data is supplied by the president of a wholesale drug house in a city of Eastern New York over 250,000 population. This wholesale drug house did an annual volume in 1923 of about three million dollars.

The following table classifies the entire personnel of the house as follows:

I. Those receiving over $30 per week, including

A. Those in executive capacity, and

B. Those non-executive.

II. Those receiving under $30 per week.

The titles are those actually being used by these houses and the number of employees indicated is the number actually employed for each of the positions.

OVER $30 PER WEEK

A. Executives	9
B. Non-Executives	
Title	

Asst. to Sales Executive	1
Examiner of Orders	1
Credit Managers	2
Buyers	5
Asst. to Buyer	1
Bills Payable Dept.	1
Shipping Clerk	1
Accountant	1
Pricers	3
Mgr. Liquor Department	1
Department Heads	11
Department Heads Assts.	3
Stock Clerk	1
Scanners	3
Cashier	1
Executive Sec'y	2
Export Department	1
Office Salesman	1
Engineers	2
Fireman	1
Receiving Clerks	2
Call Order Dept.	1

$30 PER WEEK OR UNDER

Title - (Office 2nd Floor)

Asst. Cashier	1

Bookkeepers	5
Credit Dept. Stenographers	2
Assts. Credit Dept.	2
Assts. to Buyers	5
Stenographers	3
Phone Operators	2
Phone Order Clerks	12
Voucher Clerks	5
Tube Boys	2
Claims Clerks	3
File Clerk Orders	2
Office Boys	3
Information Clerk	1
Billing Department	12
Statistical Clerks	5
Symbolizers	1
Clerks General	9
Kardex Files	2
Bills Payable Clerk	1
Show Room Clerk	1
Sundry Pickers	3
Sundry Rec. Clerk	1

Basement (Heavy Oils and Bulk Goods)

Title	
Clerks	3

Basement (cont'd)	
Porters	2
Night Watchmen	2
Door Man	1
Elevator Men	2
<u>Ground Floor (Rec. Packing & Shipping)</u>	
Packers	10
Checkers	11
Errand Boy	8
Export Dept.	3
Conveyor Men	2
Parcel Post Dept.	2
Shipping Clerks	2
Porter Shipping Dept.	1
Return Goods Clerk	1
Asst. to Dept. Head	1
Chaser	1
Basket Boy	1
Typist Forward Order Dept.	1
Bundle Boy	1
<u>Third Floor (Proprietary Med. Dept.)</u>	
Pickers	
Section 1	1
Section 2	1
Section 3	1
Section 4	1
Section 5	1
Section 6	1
Section 7	1

Pickers (cont'd)	
Section 8	1
Section 9	1
Section 10	1
Section 11	1
Section 12	1
Inspector of Orders	1
Porter	1
Damaged Goods	1
Fourth Floor (Dry Drugs, Oils, Chem. & Original Pkge. Goods)	
Title	
Clerks	6
Porters	2
Putting-up Dept.	3
Inspector of Orders	1
Fifth Floor (Pharmaceutical Dept.)	
Clerks	2

House No. 9

PERSONNEL OF WHOLESALE DRUG HOUSE LOCATED IN METROPOLITAN NEW YORK AREA DOING VOLUME IN EXCESS OF $3,000,000 PER YEAR.

The subjoined list shows the number of employees in our various departments. Many of these employees are highly and some uniquely specialized in their attainments, as for instance pricers, buyers, and key men in each department. Aside from packers, some bookkeepers and messengers, all employees are more or less specialized as even to develop a

competent stock picer in a small section of the proprietary medicine department, takes from six months to one year.

In consequence, it is not possible to procure at a moment's notice, employees t fill most of our positions, as it is to procure competent bookkeepers, chauffeurs, packers, etc. As a result, we never have laid off any help because of slack season, hard times, etc., so that, while remuneration is modest, steady employment with pay for holidays, vacations and absence for sickness prevails. One result of this policy is that our total number of present employees is identical with that of 1931, although the dollar volume of business is approximately 15% reduced. Also as a consequence, our hours of labor are shorter during slack seasons and longer during the winter months when epidemic or quasi-epidemic conditions are of frequent occurrence.

Another factor which renders a stable employment imperative, is the necessity of shipping all orders the same day as received. City business, where a multitude of doctors are writing prescriptions for innumerable products, some domestic and some foreign, makes it impossible for the average struggling druggist to stock all items for which he has occasional calls. In consequence, he must depend upon the wholesale druggist and must have same-day deliveries. As a result, a much larger force is required to handle a given volume of business than if orders were merely handled in rotation and without the necessity of finishing a day's work.

A consequence of abolishing same day service would be the laying off of at least half of our chauffeurs, and probably 10 to 20% of our entire force, as we could and would work by the clock rather than the day's work. This would enable us to keep uniformly busy all day long, rather than to have rush and slack hours as at present.

Finally, competitive conditions together with reduced volume of sales, frequently amounting to a 50% loss as compared with peak years, have rendered it necessary for the retail drug ist to curtail buying to a minimum, resulting in daily orders of small value but nevertheless absolutely essential to his existence. This places a great burden upon the wholesaler, reducing the possibility of operating at a profit to a minimum, as obviously the cost of shipping an order of $10.00 value or thereabouts, is about the same as shipping an order of $20.00 value, both of which figures represent approximate averages for 1934 and 1931 respectively. Were the retail druggist compelled to order once or twice a week, it would spell the doom of a great number and would likewise greatly reduce the number of help required by the wholesaler. More important, it would obviously militate against the sick and suffering in the delay which would ensue from any curtailment of service.

A local condition of competition with the "destructive 10%" to quote President Roosevelt, (but which is a destructive

20%, at least, in this territory], with peddlers, short line and gyp-jobbers, who know no laws or codes, would make any added expense such as a further reducing of the hours of labor, would involve nothing short of a calamity to us and to the 1,200 to 1,300 retail druggists whom we serve and to the seriously ill and sick in the territory we serve.

PERSONNEL REQUIRED

Executives: 4 (President, V-Pres. & General Mgr., Treasurer) (and Secretary)

	Over $30 per week	$20--$30. Per week	$14-20 per week
** Pricing Department	6	2	--
* Clerical	2	8	16
* Credit Department	1	1	--
** Purchasing Department	5	1	2
" " Messengers	--	--	6
** Inside Sales Clerk	--	10	6
* Outside Salesmen	16	--	--
* Shipping Department - Clerical	1	3	1
" " Chauffeurs	6	7	--
" " Garage	2	2	--
** Receiving Department	--	--3	--
** Checking Department	2	12	4
Packing Department	--	8	7
** Narcotic Department	1	--	1
** Drugs & Chemicals	--	5	5

** Pharmaceuticals	--	4	--
* Proprietary Medicines	1	5	19
** Laboratory	2	3	7
Building Maintenance & Care	3	3	--

** Expert help required

* Orderly conduct of business in accurate manner requires trained help in these departments.

House No. 10

March 7, 1934

PERSONNEL OF THE WHOLESALE DRUG BUSINESS EXCLUSIVE OF OUTSIDE SALESMEN AND DELIVERY MEN

The following data is supplied by the President of a wholesale drug house in a city of the North Central United States of over 250,000 population. This wholesale drug house did an annual volume in 1933 of approximately $3,000,000.

The following table classifies the entire personnel of the house as follows:

I. Those receiving over $30 per week, including

A. Those in executive capacity, and

B. Those non-executive

II. Those receiving under $30 per week

The titles of those actually being used by these houses and the number of employees indicated is the number actually employed for each of the positions.

I. OVER $30 PER WEEK

A. Executive

Title	Number
President	1
Vice-President & General Manager	1
Secretary & Superintendent	1
B. Non-Executive	
Accountant	1
Pricers	3
Cashier	1
Bookkeeper	2
Credit Manager	1
Drug Buyer	1
Proprietary Buyer	1
Sundry Buyer	1
Sales Manager	1
Claim Department Head	1
Drug Department Foreman	1
Sundry Department Foreman	1
Cigar Department Foreman	1
Pharmaceutical Picker	1
Order Assembly Clerk	1
Printing Department Foreman	1
II. UNDER $30 PER WEEK - First Floor	
Sales Department Stenographer	1
Phone Order Takers	4

Posting Clerks	2
Bookkeeper	1
Credit Department Stenographer	2
Buying Department Stenographer	2
Buying Records Clerk	1
Invoice Checker	1
Switch Board Operator	1
Claim Department Stenographer	1
Utility Stenographer	1
Statistical Comptometer Operator	3
Order Assembly Clerk	1
Billers-Entry Clerks	6
Comptometer Operators	2
Telephone Operator	1
Filing & Mailing Clerk	2
Utility Stenographer	1
<u>Second Floor</u>	
Scanner	1
Assistant	1
Errand Boys	3
Order Pickers	15
Checkers	5
Packers	5
Stock Clerks	2
<u>Shipping Department</u>	

Shipping Department (cont'd)

Shipping Clerk	1
Shipping Clerk Assistant	1
Receiving Clerk	1
Receiving Clerk Assistant	1
Laboratory Clerk	4
Printing Department Clerks	3
Night Watchman & Janitor	1

Deputy Administrator Dameron: Mr. J. M. Buck, of the Farmer Smith, Kline & French Company, Philadelphia, Pa.

STATEMENT OF MR. J. M. BUCK,

PRESIDENT, SMITH, KLINE & FRENCH COMPANY,

PHILADELPHIA, PA.

Mr. Buck: Dr. Dameron and gentlemen of the Administration, the brief which I wish to submit has to do entirely with labor hours.

(7)
Fiest
Wholesale
Drugs
Friedli

The attached correspondence received at the New York office of the National Wholesale Druggists' Association is offered in substantiation of the contention on the part of wholesale druggists that the wholesale drug industry has more than done its part in the maintenance of employment within its ranks. While such letters quite naturally have not been received from the entire membership of the National Wholesale Druggists' Association, it is certain that if the membership were solicited many more such statements could be obtained. Wholesale druggists generally have not been free to lay off help indiscriminately when pressed by declining sales. In some cases they have kept their employees on their payrolls when they could even have got along without them because they did not care to place these employees in the ranks of the unemployed. In other cases they realized full well that they could not well afford to discharge trained employees since they might have difficulty in replacing them if ever need for them should again arise. It is impossible for wholesale druggists to expand their labor forces suddenly with untrained help in many positions. It takes a long time to train employees in many positions. It takes a long time to train employees in order-filling, checking, billing and pricing because of the technical nature of the merchandise they handle.

Because of the fact that wholesale druggists have maintained personnel in excess of their needs during the depression,

they have already accomplished more than the purposes of the N.R.A. A sudden reduction of maximum hours to 40 a week, while it might not affect some houses unfavorably at all, in fact requiring no new employees, would work intolerable hardship on many others without any compensating advantages whatever.

If hours were to be reduced to 40 a week, such action should be gradually brought about over a period of at least a year in many houses in order not to result in potential damage to the retail drug trade and to the consuming public from errors and incompetence.

These are technical problems which the Administration should consider without reference to certain abstract theories which are very plausible and simple in statement, but which are inapplicable to the wholesale drug trade.

The correspondence attached shows very definitely on the part of those houses who have contributed:

1. That wholesale druggists have maintained their personnel without drastic reduction during the depression.

2. That such maintenance of personnel has at times involved considerable hardship to the houses concerned.

3. That some houses, because of their operating conditions, could not operate on a 40 hour basis without an uneconomic adjustment of their personnel.

4. That many wholesale druggists would be compelled to

take on additional help not from the present unemployed in their own industry but from the outside.

5. That for may wholesale druggists this would result in unwarranted and unnecessary hardship.

(The correspondence referred to is as follows:)

(COPY)

J.W. EDGERLY & CO.

OTTUMWA, IOWA

August 28, 1933

Dr. E. L. Newcomb,

National Wholesale Druggists' Association

51 Maiden Lane,

New York.

Dear Doctor:—

We sent in figures as requested for Mr. Ostlund, but we did not get to go into details such as invited by you in your letter of August 18th accompanying these forms that you sent us from Mr. Ostlund. A short explanation along these lines might be worth while.

HOURS- We formerly had a 51 hour week for the men - 45 hours for the girls. When consideration was given to changes according to the President's agreement, 40 hours, we felt that this was entirely too short.

Watching things closely, we estimated that possibly we might get 48 hours, a fairly good chance of 45 hours, and not necessarily lower than 40 hours. We set up our schedules to see what we would have to do on a 40 hour week and on a 45 hour week.

At the end of July we decided that we would try out the shorter hour proposition, so started in August 1st on a 45

hour basis.

We had no changes to make in wages. We only had two on that we could call apprentices. We were therefore lined up on the dot when your information came to the wages and hours, and no further changes were necessary.

MORE MAN POWER - We did not have to add any employees, as beginning the first of the year, 1933, we decided that we had three more men on the payroll than we needed, and we worked out as to what to do, and expected to cut them down. However, matters kept getting worse, and we saw the distress all over the country, and we hesitated to turn three more into that whirlpool of humanity that did not know where the next meal was coming from.

We therefore, picked out work around the house that could be done, and we kept a portion of our force busy on that work right along. We did everything from painting shelves to renewing the roof with these men.

Therefore, when readjustment came, there was no trouble in tanking care of these three, or at least there was less trouble, and there was no necessity for putting on any more help.

We had just a bout gotten to the point where it looked as though these three would have to hustle for themselves when this code business came up, shorter hours, etc., so we kept them on and never dismissed them.

NOW AS TO HOURS THAT ARE JUSTIFIED BEING GIVEN BY THE ADMINISTRATION TO THE WHOLESALE DRUG TRADE. We do not know what has been put up to you as to the manner in which a wholesale druggist must conduct his business. We cannot speak for metropolitan houses, as we never ran one, but we do know something about how our house is handled, and of all the wholesale druggists in the N.W.D.A. there is probably some place between 33-1/3% and 50% that are in town that would not be called metropolitan.

With us, the system of handling business has changed very greatly in the last few years. When railroads handled the question of transportation exclusively, we ran our business to conform with the railroads' handling of the shipments.

Prior to the war there was, to a certain extent, considerable co-operation among the railroads as to service. During the war the railroads were taken over by the government, and much of this was eliminated, and since the war it has grown less and less. The service that we were getting was far less than pre-war times. Their service has been figured out in recent years, bases upon efficiency for the railroads, and convenience for the railroad employees.

Then the truck business commenced to come in, and they gave service. To show you how the truck business has taken the railroad business, would say that for 1933 up to July 31st, our tonnage out, was approximately 15% greater than in 1932.

Of our tonnage out, we have four railroads, trucks, city delivery, waiting orders which are sent out by customers from out of the city by their cars or by trucks, and they take the goods back with them, and then there is parcel post and express.

Of our total tonnage, this was divided up for 1933 for the first seven months as follows:

City)
Waiting Orders)..... 46.53%
Parcel Post)

By truck 31.50%

The four railroads, all together 22.97%

In other words, the truck service was 40% more than the railroads did for us in getting goods out to our customers.

In the year 1925, when the trucks were just getting a good start, of the business going out by trucks and by railroads, the trucks did 6.6% of the business, and the railroads 93.4% of that business. Now it is about 60% by truck and 40% by railroads.

With that kind of a background in the picture, we want to impress upon you the fact that it is necessary for us now in the handling of our business to conform with the truck-service, as that service takes care of 60% of our business going out into the country.

The railroads still handle the business the same way that they used to. We have to get the goods down by four o'clock

in the afternoon, in order to be shipped out the next day.

Our salesmen for instance take an order today. We will get it in the mail in the morning. We have until four o'clock in the afternoon of that day to get it to the depots, and then it reaches the customer generally the next day after we load it here, That's the same old system that the railroads have had in vogue for years, during the war and since the war, but how do the trucks handle it?

We get orders in here all day long. We are not a metropolitan center, consequently the railroads do not center up here, but pass through. They aim to get into the metropolitan terminals at certain times. The metropolitan terminals around here are Chicago and St. Louis. We are six to eight hours distant from Chicago, because they have faster trains. We are a little farther in time from St. Louis, because the trains are not as good. We are a little farther away yet from Minneapolis, as the train service there is poor. We are the same mileage, probably, from each one of these three metropolitan centers.

Trains going through reach Chicago for instance early in the morning or early in the evening. The early in the evening trains to Chicago go through here along about mid-day, and they drop off mail from our customers, which we have to attend to. The bulk of our mail, however, is night mail.

and we have it early in the morning. 60% of this business goes out by truck. By getting a start on our mail early in the morning, we are able to get much of our business out on the trucks that morning, as they center here - these truck systems distribute goods out of Ottumwa. We, therefore, have to start early in the morning, and we open at six o'clock, to get the orders ready.

Now with this truck service starting at six o'clock in the morning, we are able to ta ke the orders that our salesmen solicited today, and we can go to work on them at six o'clock tomorrow morning, the trucks get them all the way from eight o'clock until ten o'clock, and the customers get them tomorrow,making twenty four hours better service than the railroads will give, simply because the truck lines are working for service.

Now the figures we gave you above of 46.53%, that comes under city, waiting orders, parcel post and express orders, and there is 18% of it - that is, 18% of the 46%, that is waiting orders. These trucks come in here all day long, so we have to render a service to keep them going.

Since we started in at six o'clock in the morning, we have been closing at four o'clock in the afternoon, and we get along fairly well on that basis. Of course, we have to stagger some on the present hours, but we start a limited few at six o'clock

in order to get the orders ready. Then at 6:30 more of the help comes on, to work on orders. At seven o'clock the city and the office force come on.

Quitting time, the six o'clock men quit at three o'clock, the 6:30 at 3:30, and the seven o'clock at four o'clock, which gives each one of them a 45 hour week.

Now we can get along on that kind of a basis, but to try to cut it down to 40 hours would mean that the six o'clock men would quit at two o'clock, the 6:30 at 2:30, the seven o'clock at three o'clock.

There is not enough business and not enough time to put on another shift. Shifts are not practical unless there can be at least two full time shifts at work.

We have tried to give you the picture as to a wholesale house of our caliber running in a fair sized community, with a fair sized business, to show you the reasons why we do as we do, and to justify our position that we could not satisfactorily work on a 40 hour week.

Our hours should be at least until four o'clock, as with all the tremendous number of items handled in drug stores, in order to serve the public, the retailer cannot possibly have all these items on hand all the time, as they only carry a limited stock of many of these items on account of the limited call, but they never like to be out. We are consequently getting telephone orders, for which they send in to us - we do

not deliver them - all day long, for these odds and ends, and it keeps up six days in the week, as even on Saturday, when we close at twelve o'clock, there are many calls for waiting orders that the retailers ask us to get for them, and we frequently have to make trips to the store to get them out after our closing hour on Saturday.

We do not believe that it is practical to shorten the hours below 45, and we believe it is due the public, it is due our customers, for us to remain open as long as we do.

We are not certain that this story will be any news to you. You may not be able to use it. Most of the wholesalers, however, that are on the committee before the N.R.A. are from metropolitan centers, and we want to show you from a real picture how we have been trying to be helpful all the way through, and why we feel that it would be an impossibility to give the service that we believe we ought to give and have our week down to 40 hours. 48 hours would be very more satisfactory, but 45 would be the limit.

Very truly yours,

J.W. EDGERLY & CO.

(Signed) W.T. HARPER

COPY

SCHIEFFELIN & CO

NEW YORK CITY

October 11, 1933.

Dr. E. L. Newcomb, Executive Vice President
The national Wholesale Druggists Association, Inc.
51 Maiden Lane,
New York City

Dear Doctor Newcomb:

I am glad to write you with reference to the employment and wage policy of Schieffelin & Co. during the depression. We early decided to make every possible economy before reducing salaries and wages, and then if necessary to make a general uniform reduction before discharging anyone on account of reduced business volume.

Twice in the past four years it appeared that we should be obliged to make a general cut. Each time I explained the situation to our department heads and on their initiative, hitherto unsuspected economies were made in other directions, which, combined with strenuous sales effort, has made it possible for us carry through to this day with every employee who was here in 1929 receiving the same salary and wages received then and without a single one discharged on account of the depression. This does not mean that we today on a much smaller business have as many employees as we had in

1929, but it does mean that from July 1929 to July 1933 this house did not add a single employee in good standing to the ranks of the unemployed. The first item on the following analysis, which I made last summer, will explain what I mean by the above works, "in good standing":

10 discharged for stealing - July 1929 to July 1933.
14 died
5 girls married, - left of own volition
2 moved out of town, " " " "
18 left because of ill health, of own volition
49 ---------- TOTAL
24 new employees engaged
25 fewer employees July 1933 than July 1929
Total employees July 1929 - 349
July 1933 - 324
25 fewer employees or 7.15%

Since N.R.A. we have added six (6) employees to the 324.

It should be obvious from the above record that our house cannot play an important role in re-employment, particularly in comparison with the great industries that necessity forced to lay off thousands of employees.

Very truly yours,
SCHIEFFELIN & CO
(Signed) W. Schieffelin & Co, Pres.

COPY

D. KALTMAN & CO., INC.

126-134 WEBSTER AVE.

JERSEY CITY, N.J.

October 9, 1933

(Dict. October 7)

Dr. E. L. Newcomb, Secretary

National Wholesale Druggists Assn.

51 Maiden Lane

New York City

My dear Doctor:

It has been brought to my attention that certain agencies at Washington are not familiar with the fact that Wholesale Druggists generally, and particularly those who are members of our organization, have maintained rather rigidly, and at considerable expense, their entire personnel during the years of the depression, names, 1929 to the present time.

Insofar as our company is concerned, we now employ six persons more than we had on our payroll in 1929 and our schedule of salary is approximately the same.

I believe that the various Government agencies should be familiarized with this fact because it should certainly help us in securing the necessary Code.

Cordially yours,

DKL:SAS (Signed) David L. Kaltman, President

(COPY) 178

SMITH - FAUS DRUG CO.

SALT LAKE CITY, UTAH

July 22, 1933.

Dr. E. L. Newcomb

Secretary N.W.D.A.

51 Maiden Lane,

New York, N.Y.

Dear Dr. Newcomb:

On account of rush with other matters, your wire did not receive the prompt attention that it should, and I am sending you an Air Mail letter as you will receive this just as soon as you would a wire sent today.

Our 1932 volume was 44% under our 1929 volume. Our reduction in force for 1932 under 1929 was 22%, or 14 employees. We have had only one wage cut of 10%, and the 1933 employment average is about the same as 1932, although we had a slight decrease in volume for the first six months.

We have taken the stand that we did not want to reduce payrolls any more than was absolutely necessary, and we have confined our reduction in employees almost entirely to not replacing those who voluntarily left our service. There have been only one or two instances of the 14 employees whom we have released because of retrenchment.

With kind regards, yours very truly

(Signed) J. T. Kephart, Vice Pres. & Mgr

COPY

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SAN ANTONIO DRUG COMPANY

SAN ANTONIO, TEXAS

October 31, 1933.

National Wholesale Druggists' Association

51 Maiden Lane

New York, N.Y.

Gentlemen:

Referring to circular letter of October 24th by Mr. Ostlund concerning employment matters, we wish to point out in connection with questions No. 1 and No. 2 , that the Ernst & Ernst system of wage incentive was introduced just before July 1st, which resulted in the transfer o dropping of a few employees during July and in the subsequent reinstatement under N.R.A. of several of these and the employment of a few new people. The aggregate number on our payroll in the wholesale department was 82 on October 1st and the same number July 1st. We merely wanted to explain why there was no increase in number during the three months period specified in your letters.

In our Laboratory or Manufacturing Department, the work is seasonal fluctuates to some extent. We had 18 regular employees on July 1st. The employees in this department are under the factory code of forty hours and are working five days of seven hours each at a minimum of 30¢ an hour.

ANTONIO DRUG COMPANY (Cont'd)

Relative to question No. 3, we have 43 employees who, on July 1st were working on a five-day basis, all of whom subsequently at the beginning of August, were restored to a six-day basis and have continued since that date on full time. Considering the Ernst and Ernst plan which was being introduced in July and gradually developed, and additional 32 people were on a five-day week just before July 1st, so it would be probably more nearly correct to consider that we had 75 people on a five-day week before July 1st who were placed on a six-day week as the result of N.R.A.

Very truly yours,

SAN ANTONIO COMPANY

(Signed) A.F. MUNSTER,

Secretary - Treasurer

A.F. MUNSTER
GTR

COPY

RAPIDS DRUG COMPANY, LTD.

ALEXANDRIA, LA.

November 1, 1933.

Mr. H. J. Ostlund, Director,

The National Wholesale Druggists' Assn.,

51 Maiden Lane,

New York, N.Y.

Dear Sir:

We are enclosing the questionnaire recently sent us which we have answered as best as we knew how. We do not think, however, that answering a questionnaire of this sort puts the case as it should be. For instance in our case; previous to July 1st, we were employing four or five men more than we really needed. In other words, we did not discharge our help, but kept practically all of our crew in spite of the depression. Naturally, there was a slack that had to be taken up, as these men were not busy all of the time. Had it not been for this, the increase in our help would have been six or seven instead of two. There is danger, that the firms who have acted in this way will be unfairly penalized, whereas, they have been operating two or three years without any profit just to keep their help together.

With reference to shortening the working hours to forty instead of forty-five, we feel that in many cases this will cause the closing of business houses, who have been operating

without any profit for some time. In our city already two wholesale grocery houses have discontinued business; and, this is going to happen to other wholesalers in other lines of business; stockholders of a company will not permit it to be operated at a loss continually.

We hope that the volume of business during this coming year will justify our increased expenses, otherwise, it may result in more unemployment instead of more employment.

Trusting that you understand our explanation, we are with best wishes,

Yours very truly,

RAPIDS DRUG COMPANY, LTD.,

(Signed) C.F. Gravel

Secretary - Treasurer, - Mgr.

CFG-ZL. encl.

COPY

GILMAN BROTHERS INC.

BOSTON, MASS.

November 16, 1933.

Mr. H. J. Ostlund,

c/o Hotel Carlton,

Washington, D.C.

Dear Mr. Ostlund:

Pardon my delay in replying to your letter of November 11th, written through Dr. Newcomb's office, but absence from my desk - the many details confronting me taking me away from my office continually - has just held me up, but here is the information that you desire and I hope it will answer your purpose.

I have tried to take an average week without any holiday therein. Had I taken any time to search, I could probably have found a week that would have showed up with a greater variation, for at you know it takes but a slight epidemic of any character to precipitate a very heavy business in the drug line; nor can anyone estimate what a week will bring forth, - sometimes, without apparent cause, the orders will be very heavy from all directions and invariably in such cases, every order is marked "rush", and that applies more today than any other time in our history, for the simple reason that every retail merchant - due to financial diffi-

culties - is buying from 'hand to mouth'. Then will come a pause when everything will slacken up, and that is why it is so difficult to control your labor proposition.

We are very proud, however, of our record. At no time during the 'depression' did we reduce salaries or discharge any of our help; we are carrying practically the same force today that we did through the 'hay days' of prosperity - for the simple reason that our help has to be trained; we can't go out and pick up one here and there. Many of our employees in the Drug, Chemical and Pharmaceutical Departments are registered druggists - this is necessary if one is to conduct a wholesale drug business in proper and safe manner, and so in order to uphold the high standard that we have always held, we have been compelled to retain practically all of our original force. We could materially increase our business without increasing our help, but it is necessary that we have sufficient hours each week to complete our business. Only yesterday the orders came in so late, due to a delay in the Post Office Department, that it was with great difficulty that we were able to ship out all of our orders the same day - which was absolutely necessary because of the special requests of the retail druggists who pointed out that his particular order contained items that were in absolute need. As you well know, it is very essential that all orders be shipped promptly

the day they are received in order that delivery may be made at the earliest possible moment, for invariably they contain some desired article for which a physician or an institution is waiting.

I mention all this, although I believe you have a general picutre, but I do want you to know the care that we have exercised in the welfare of our employees during this long period of 'depression'; we are very proud of our record.

If there are any other figures that I can give you, do not hesitate to command me.

Very truly yours,

CAL:FM (Signed) CHARLES A. LORING

COPY

THE DAVIS BROTHERS DRUG COMPANY

DENVER, COLO.

October 9, 1933.

Dr. E. L. Newcomb,

c/o National Wholesale Druggists' Ass'n.

61 Maiden Lane,

New York City

Dear Doctor Newcomb:

Upon returning home I began to look over our payroll, and have studied it since 1929. Since that time I find that we have dispensed with the services of a few people. Nobody has been discharged except for drinking or stealing.

During the depression we would have liked to have dispensed with the services of a great many people because we had a great many more than we needed, but we kept them on, Dr. Newcomb. We did not think it would be quite right after many years of loyal work to let them go.

Yours very truly,

JCD/D (Signed) JOHN C. DAVIS, President

Far---

Farmer

Deputy Administrator Dameron: Mr. W. C. Miller, of the Bodeker Drug Company, Richmond, Va.

STATEMENT OF MR. W. C. MILLER,

BODEKER DRUG COMPANY, RICHMOND, VA.

Mr. Miller: One of the provisions of the proposed Code of

(Exh)8) Fair Competition for the Wholesale Drug Industry calls for a differential of $1 a week in the southern territory, as that territory is defined in this and other codes. In order to ascertain whether or not the Wholesale Druggists of the South were favorable to such a differential, a poll was made by Mr. Edward S. Albers of Knoxville, Tenn., by writing the wholesalers of that territory and asking them whether or not they were favorable to such a differential. Mr. Alberts received twenty one replies, all of which were favorable, and many of which expressed definitely the extent of differential which they believe desirable.

The proposed code calls for a differential of $1 a week. Events that have occurred in the south since the signing of various codes applicable to that section would seem to indicate that such a differential is entirely desirable, and that certainly $1 a week is not adequate. After all, it is the experience of wholesale druggists, as well as of business men in all types of enterprises, that labor is a service which must be bought and paid for, and that the extent of that service is not necessarily measured by the time which a laborer is present at his place of employment, but by the value of that labor in

terms of productiveness.

If, at any time, labor is over-valued, whether artificially or otherwise, the result is bound to be either that the laborer loses his job or that the employer is forced to go out of businessness. The wholesale drug industry is vitally concerned with maintaining in business all the members of the industry who have a place therein, and in maintaining in employment in that business all employees who can render service of a value for which they can afford to pay.

The brief which we herewith present constitutes evidence of the opinion of the wholesalers of the south with respect to the necessity of a southern differential.

(The brief submitted in connection with this statement is as follows:) EXHIBIT M

BRIEF IN SUPPORT OF THE CONTENTION THAT THERE SHOULD BE A DIFFERENTIAL BETWEEN WAGES IN NORTHERN AND SOUTHERN TERRITORY. Submitted to A. D. Whiteside, Administrator, at the Hearing on the Wholesale Drug Code_____, 1934.

Minimum wages should be less in the South than in the North.

1) There is much labor in the South that is not efficient enough to warrant employment under any conditions at wages set as high as the minimum for the North. Such labor unless it can be employed at a rate somewhat commensurate with its value to the employer faces exclusion entirely.

The differential should therefore be wide enough to make

possible the employment of low productivity labor for such tasks as it can perform in the organization. At the same time the differential should not be so high as to encourage the use of such low class labor for anything but the lowest class work requiring the minimum of skill or of energy in application. A differential of one dollar a week is provided for in the proposed code. This differential is none too high, and should be allowed without question.

2) Further evidence of the fairness of this differential is based on the opinion of 21 wholesale druggists from the South. These opinions are based on a variety of considerations, but they are presented here just as received. It is to be noted that many of them favor a differential considerably greater than that provided for in the proposed code.

- - - - - - - - - - -

On August 28, 1933, Mr. Edward S. Albers, President of the Southern Drug Club, as association of wholesale druggists in the South, sent to the members of that club the following letter:

Knoxville, Tennessee, August 28,1933

TO MEMBERS OF SOUTHERN DRUG CLUB:

SUBJECT: Code of the Wholesale Drug Industry.

With reference to Sec. 3. Article IV of the Wholesale Drug Code which provides for wages as follows:

"On and after the effective date of this Code, each Whole-

sale Druggist shall adopt a schedule of minimum wages under which no employee (other than apprentices) shall be paid less than $12 per week in any city with a population of less than 100,000; and under which apprentice employees shall be paid not less than $2 per week under these minimum wages. The population in each case shall be determined by the United States census of 1930."

It would appear that there should be a differential in wages for Northern and Southern territories.

If you will indicate your views on the bottom of this letter as what you think should be the minimum wage for Southern Wholesalers, sign your name and return to me, I shall be glad to forward to the New York office of the N. W. D. A. for their consideration.

Yours very truly,

(Signed) Edw. S. Albers

Pres. Southern Drug Club.

- - - - - - - - - - -

From the replies to this letter, the following extracts or copies are given.

1) "We suggest that there should be a differential in wages for northern and southern territories of about $2.00 per week

McKesson-Van Vleet-Ellis Corporation,

Jackson, Miss."

2) "We think there should a differential of at least $2.00

per week in favor of the South.

Albers Drug Co., Knoxville, Tenn.

By Edw. S. Albers."

3) "We feel that in view of the fact that living is very much cheaper in the South, that there should be a differential in wages between the metropolitan centers of the North and those of the South. This differential should be at least $2.00 per week, as there has been this much or more at all times in the past. This does not mean that the wage earner has less for his hours of work, as he has procured more in luxuries for his differential in pay. Investigation will prove this.

L. L. Lyons & Co., Ltd., New Orleans, La.

By T. H. Lyons, Vice Pres. & Gen. Sales Mgr."

4) "In answer of the above, we believe there should be $3.00 differential in the minimum wage scale between North and South, due to cheaper living and higher overhead for southern merchants on account of small volume in scattered area. The minimum wage scale should be $9.00 to put business on a safe basis.

Chapman Drug Company, Knowville, Tenn.

By M. T. Zion, Vice-Pres. "

5) "In our opinion there should be a differential for Northern and Southern territories making the minimum for Southern territories, $1.00 less than for Northern territories.

Estorge Drug Co., New Iberia, La.

By Ed. L. Estorge "

6) "As living expenses are less in the South than in the North, I feel there should be a differential between northern and southern territories of $2.00 per week.

Meyer Bros. Drug Co., Little Rock, Ark.

By R. H. Chamberlain, V. Pres."

7) "We believe that a lower scale should be in effect in the South. Living conditions in the South are such that a large class of our population can live on less than in the North.

Rapides Drug Co., Ltd., Alexandria, La.

By C. F. Gravel "

8) "Referring to above, because of living conditions I think the differential in the South should be at least 25% less than in the Northern cities.

J. L. Barry "

9) "Our understanding was that there was a differential of $1.00 between Northern and Southern territory. If this is not the case, we surely think and believe the Administration will grant this differential, as in living conditions there is even a larger differential.

Brannon & Carson Company,

Columbus, Ga. "

10) "I believe the south should have a lower rate than the north - on a/c Negro and slower efficiency.

Estorge Drug Co., New Iberia, La.

By Ed. L. Estorge "

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Meyer Bros. Drug Co., Little Rock, Ark.

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Brannon & Carson Company,

Columbus, Ga. "

10) "I believe the south should have a lower rate than the north - on a/c Negro and slower efficiency.

McKesson Schuh Drug Co., Cairo, Ill.

By J. P. Schuh "

11) "We think that there should be a differential of at least $2.00 per week in wages for the southern territories as compared to northern territories.

McKesson-Van Vleet-Ellis Corp., Memphis, Tenn.

By Jesse Wynne "

12) "We believe there should be a differential of at least $1.00 in favor of Southern wholesalers.

L. S. DuBois Son & Co., Inc., Paducah, Ky.

By Geo. S. DuBois, V. P. "

13) "It is certainly our opinion a lower minimum wage should be permitted in the South as compared with the North, particularly in view of the fact other trade associations have had approved provisions calling for such differential.

Lamar & Rankin Drug Co., Atlanta, Ga.

By R. J. Taylor, Jr. "

14) "We suggest a differential in the minimum wage of employees and apprentice employees of $2.00 per week to apply in the South.

McKesson Duff Drug Company, Chattanooga, Tenn.

By F. O. Duff, Pres. "

15) "$12.00 should be a fair minimum price

Meyer Bros. Drug Co., New Orleans, La.

By L. A. Iorns "

16) "With reference to Section 3, Artiole 4 of Wholesale Drug Trade regarding wage provisions, we believe that in Cities under one hundred thousand there should be a minimum wage scale of white people $13.00, colored $10.00; for apprentice, first year $8.00, second year $10.00; laboratory help, minimum $5.00; colored delivery boys $5.00.

"We believe this is equitably fixed for cities of a population of one hundred thousand or less.

Mobile Drug Company, Mobile, Ala.

By Hugo V. Eichold "

17) "We think that the minimum wage scale for the Southern states should not be more than $10.00 per week in cities with a population of less than 100,000, that is, for porters and warehouse helpers. That class of help would be satisfied with a salary of $10.00 per week. This is our honest opinion of the matter.

Cawthon-Coleman Drug Co., Selma, Ala. "

18) "We believe the minimum wage for Southern Jobbers should be $13.00 per week.

Goode Cage Drug Company, Inc. Shreveport, La.

By J. G. Wafer "

19) "Inasmuch as a differential has been made in all other lines between the Northern and Southern Divisions, it is our opinion that the wholesale drug industry should certainly not be excepted, and thereby penalized, - as the cost of

living in the South for the wholesale drug workers is less than in the North, just the same as workers in any other industry.

Standard Drug Company, Meridian, Miss.

By E. A. Morrison, Vice Pres. & Treas. "

20) "$10.00 per week.

Curry-Arrington Co., Rome, Ga.

By H. H. Arrington "

21) "In considering wages the cost of living in various sections of the country should be considered and as the cost of living is lower in the South than in the North it is only fair that a difference in the wage rate should exist. It is our opinion that the minimum wage in the South should be $13.00 per week and apprentices $3.00 per week under these minimum wages.

McKesson-Berry-Martin Co.,

Nashville, Tenn. By A. D. Berry, Pres. "

****

Deputy Dameron: Thank you, Mr. Miller.

Dr. E. L. Newcomb, of the National Wholesale Druggist Association.

STATEMENT OF DR. E. L. NEWCOMB,

SECRETARY AND EXECUTIVE VICE-PRESIDENT,

NATIONAL WHOLESALE DRUGGISTS ASSOCIATION,

NEW YORK CITY.

Dr. Newcomb: Mr. Chairman and gentlemen, this is a summary of facts in support of the proposed Code of Fair Competition for the Wholesale Drug Trade.

First, permit me to express my thanks to Mr. Berrall for his exhaustive comments on the provisions of this proposed Code, and also for his gratuitous work of the efforts that both Dr. Ostlund and I have made to work out the problem.

May I add that it is my belief that the members of our Code Committees have been equally sincere and desirous of working out this problem in a manner satisfactory to every member of the Administration.

I. N.W.D.A. and F.W.D.A. Representative

FIRST Wholesale Drugs Friedli (9)

This proposed code has been prepared by Code Committees representing the National Wholesale Druggist's Association. These associations are duly and fairly representative of the wholesale drug trade of the United States. (See Exhibit A containing facts to prove that the N.W.D.A. and the F.W.D.A. do approximately 85 per cent of the total wholesale drug business in the United States. See also Exhibit B, page 6, Statistical Data Relative to Wholesale Drug Trade, which shows that the total wholesale drug business in 1929 was approximately $533,500,000 of which about four percent was import. See also page 26, Table VII, which shows that the total wholesale drug business by 124 members of the N.W.D.A. for 1929 was $224,731,000. One hundred twenty-four wholesalers was about half the total number of the N.W.D.A. members at that time,and on this basis it is estimated that these wholesalers alone did approximately $450,000,000 or about 81 percent of the total wholesale drug business of the country at that time). Additional data in support of the fact that members of the N.W.D.A. and F.W.D.A. are duly and fairly representative is contained in these two briefs, A and B, as filed.

II. Number of Wholesale Druggists in the United States

According to a study made by Professor H.J. Ostlund, School of Business, University of Minnesota, there were, in

1929, 1191 concerns engaged in the wholesale drug business in the United States. Of these, 586 or slightly less than half do 96.6 percent of the wholesale drug volume (See Exhibit B pages 4 - 5 - 7. Of the 586, approximately 250, representing the members of the N.W.D.A. and the F.W.D.A., do, as nearly as can be estimated at the present time, between 85 per cent and 90 percent of the total volume of the wholesale drug business.

III. Total Number of Employees in the Wholesale Drug Trade

In 1929 the entire number of employees and executives in the wholesale drug trade, including brokers, and miscellaneous types of distributors, was 38,237. Of these 8,824 were listed as salesmen and 1786 as executives, these two groups constituting 27.8 percent of the total. Applying this same percentage to the 25,504 employees in 1929 of wholesalers in strictly drug lines, would leave 18,414 employees falling within the scope of N.R.A. regulations. (See Exhibit B. p.7 and 8)

IV. Cost of Labor as a Percent of Sales

According to an analysis made by Professor Ostlund of the United States Census Bureau figures, the total labor cost in the wholesale drug business as a percent of total volume is approximately 8.8 percent. (See page 7, Exhibit B).

V. Status of Wholesale Drug Trade Today As Compared With 1929.

(See page 8, Exhibit B) and page 6 Exhibit C)

(a) Sales approximately 62.1 percent of 1929.

(b) Employees August 1933, 81.3 percent - (now estimated at 85 percent).

(c) All wages and salaries 72.4 percent of 1929.

(d) Wages, salaries, below $30 per week, 82.1 percent of 1929.

(e) Credit losses 2.8 times the dollar losses of 1929 and 4 times as large as a percent of sales.

VI. Nature of Wholesale Drug Business

The volume of the wholesale drug business is primarily dependent upon the health condition of the nation and not upon economic conditions. People do not take medicines unless they are sick. Over 60 percent of the volume of the drug business consists of medicinal preparations. Epidemics create sudden fluctuations in sales. (See Exhibit B, pages 8 and 9, also Exhibit C, pages 14 and 15.) Wholesale druggists supply over 100,000 different proprietary medicines, manufacturers' medicinal prescription specialities, biologicals, glandular products, pharmaceuticals, drugs, chemicals, botanicals and medicinal ampoules to about 60,000 drug stores, 1700 hospitals, and upwards of 150,000 physicians, the latter directly or indirectly. There are over 10,000 individual

proprietary prescription specialities. (See Exhibit D, American Druggists' Price Book, and Exhibit E, Druggists' Circular Price Book). A large proportion of these prescription specialities.are purchased by drug stores hospitals and physicians in 1/12 dozen quantities. (See Exhibit F, invoices of wholesale druggists).

There are between two hundred fifty and three hundred million prescriptions written in the United States each year. (See Exhibit G, Prescription Ingredient Survey by Professor E. N. Gathercoal, University of Illinois. This survey shows approximately one-third of ingredients of all prescriptions written are proprietary medicinal specialties. (See page 15, Exhibit G). Many of these proprietary specialties are potent, remedial agents constantly used to maintain life and health. There are over 100 digitalis proprietary specialties along. (See page 88, Exhibit E and page 37 Exhibit D.) Thousands of additional proprietaries are of equal importance for every day emergency use and must be supplied promptly and made constantly available to patients requiring them. Professional ethics demand that there be no substitution in supplying these thousands of important prescription products. The fact that retail druggists and others buy them in 1/2 dozen quantities makes it imperative that the wholesaler deliver them the day they are ordered. The retail druggist who orders 1/12 dozen quantities either has none in stock, as is frequently the case, or at most

has but 1/12 dozen in stock and thousands of prescriptions every day cannot be filled until the merchandise is received from the wholesaler. Many of these items, including antitoxins, insulin, narcotics, etc., are essential to maintain life, and pharmacists, hospitals, physicians, as well as patients, today depend upon the immediate prompt service of the wholesaler in supplying these remedies. This is a daily emergency proposition and has nothing whatsoever today with epidemics. A study of wholesalers' invoices submitted as Exhibit F proves conclusively that a very large percentage of these invoices called for these emergency items.

VII. Hours Required for Wholesale Druggists to perform their important service in the distribution of essential drugs and medicines they must maintain their houses in operation at lease five full days in the week and a half day on Saturday. (See Exhibit C, also Exhibit B, pages 11 and 12.) Prior to PRA many wholesale druggists kept their houses open from 45 to 70 hours per week. By making certain adjustments they are able, with few exceptions, to complete all deliveries the same day that orders are received on the 45 hour weekly employment basis and are now so doing. The consensus of opinion of wholesale druggists is that they cannot do so if their help is employed less than 45 hours per week. (See Exhibit H, Opinions of 120 Service Wholesale Druggists.) It is a fact that thousands and thousands of the orders received by a wholesale druggist for

important potent medicinal prescription specialties would be delayed in delivery from 12 to 24 and, in some cases, 36 hours, if employees work less than 48 hours per week. It is the opinion of those best informed concerning the need of immediate delivery of these essential medicinal agents frequently ordered in 1/12 dozen quantities that should this delay in their distribution be forced upon the industry, the lives of hundreds of patients would be seriously jeopardized and that, due to failure to receive medicines, death in many cases would result.

It has been suggested to our Code Committee that wholesales should supply these essential remedies in quarter and half dozen lots so that retailers would be able to maintain immediate service on these products. Nothing would suit wholesale druggists better, as it would effect an enormous savings in our costs of distribution. If wholesale druggists were able to eliminate distribution at wholesale in retail quantities it would, on the basis of an estimate of one of our wholesalers result in a reduction of employment in the wholesale drug business of approximately 7 percent. This percentage, if applied to the 18,414 persons employed in the wholesale drug business coming under NRA, would mean that wholesale druggists in this country would throw out of employment 1,289 persons.

This is substantiated, Mr. Chairman, by the telegram that I just read from the Gilmore Drug Company, which just arrived.

The economic condition of the drug industry does not war-

rant wholesale druggists extending further credit to retail druggists. Credit losses have jumped since 1929 from 0.55 percent of sales to 2.24 percent of sales in 1932. (See Table 7, page 26, Exhibit B). The losses of wholesale druggist members of the N.W.D.A. alone, for the year 1932, were seven and one half million dollars and estimated at nine million dollars for 1933. (See also Table 7, page 26, Exhibit B.) Credit conditions generally prevent larger sales to retailers.

VIII. Hours of Employment - Wholesale Drug Trade

The wholesale drug trade, long before the enactment of NIRA, very largely had in practice the principles set forth in the program of recovery of NRA. (See Exhibit C, pages 14 to 17, also see Exhibit B, pages 11, 12 and 13.)

The personnel of the wholesale drug trade is composed of approximately 23 percent, representing ordinary help which may be replaced by personnel not especially trained or expert in the trade itself. About 36.5 percent represents especially trained help and about 40.5 percent represents expertly trained help. These last two groups represent a personnel which cannot be replaced at the present time except through bringing in assistants or apprentices who may qualify through a period of training running from six months to one year. (See Exhibit J, Letter to Mr. Joel Berrall under date of February 24.)

The personnel of the wholesale drug trade is made up of individuals, 77 percent of whom, as stated above, are either

especially trained or expert help, and these individuals, almost without exception, have separate, special duties to perform. (See Exhibit K, illustrating personnel of 10 separate wholesale drug houses in different parts of the United States.) It will be noted from the facts set forth in Exhibit K that the personnel distinctly represents highly specialized or expertly trained persons and that their activities primarily are not overlapping, except in the smaller houses where even greater training and ability is required because of individuals of necessity handling several departments. With few exceptions, only one or two individuals devote their time to specific activities and this usually in the larger houses. The work of the vast majority of the personnel demands the highest degree of integrity as well as competence. Error in filling orders of the innumerable medicinal items may result in serious consequences or even death to the ultimate consumer. All of this help must be trustworthy in the very highest degree. It must be borne in mind, as stated previously, that there are over 100,000 different medicinal items listed in current drug price lists. These lists, it is known, are not complete. It is estimated that there are upwards of 175,000 different medicinal items sold in this country. By an actual count made by the Department of Commerce in connection with the Saint Louis drug survey, over 86,000 items were found to be stocked by one western wholesaler. Surveys in other houses indicate from

twenty-five to thirty thousand items as the usual minimum number of items stocked. It must be obvious that complete familiarity with this enormous number of individual items on the part of any one or even several individuals involving a complicated nomenclature, part of which is Latin, is impossible. No one individual in any wholesale house possesses a thorough familiarity with the some hundred thousand terms and names representing all of the merchandise in his establishment. This applies even in the stenographic department and among those who occupy secretarial and executive positions. Slight variations in terminology frequently indicates the difference between a virulent poison and a harmless ingredient, such as Barium Sulphate, which is quite inert, and Barium Sulphide, which is a deadly poison.

And may I interpose here that when you come to a drug like digitalis, you have such preparations as Digibaine, Digidin, Digifoline, Digiglusin ---

(Here the reporter taking the record threw up both hands.)

Dr. Newcomb: I submit, gentlemen, that this is ocular evidence of the problem that the wholesale druggist is up against, because of the fact that an expert stenographer is unable to take this dictation. I submit the names to him in writing, and here are twenty-five of the digitalis preparations.

(The list of digitalis preparations as handed to the reporter is as follows:)

Digibaine, digidin, digifoline, digiglusin, diginfuse, diginorm, diginutrin, digipan, digipit, digipoten, digipura, digipuratum, digisine, digitalin, digitaligen, digitaline, digitalone, digitan, digitex, digithoid, digitonin, digitol, digitofin, digitora.

Dr. Newcomb: When it comes to chemicals, sometimes the wholesaler gets the order from the retailer under the common name, say, of Cinchophen, but again it may come in under the chemical name of Cinchophen-phenylemeoninic acid.

The men who handle the particular department including a certain number of these items must possess a familiarity with these names which noone of us possesses.

It is a fact that the decline in the number of employees on the payrolls of wholesale druggists totals 22.6 percent for a period of four years from July 1st, 1929, to July 1st, 1933. (See Exhibit C, page 7.) This amounts to 6.4 percent on the payroll of each year. Most of this, on the basis of facts supplied by wholesalers, has been due to natural separations such as death, ill health, marriage, voluntary change of occupation, removal from city, discharge for cause, and so forth. This represents 6.4 percent a yard. (See page 9, Exhibit B, also Table X, Exhibit B.) It is now a fact that at the present time practically no specially trained or expert help qualified to serve the wholesale drug industry is unemployed. (See Exhibit H, Reports From 120 Wholesalers, also Exhibit L, Correspondence

From Wholesale Druggists.)

The facts are that specially trained or expert help is not available for the wholesale drug trade and any new help employed would have to be as apprentices and assistants who would gradually qualify for the work to be performed.

IX. EFFECT OF PRA

Since PRA for the wholesale drug industry became effective August 9, and up to October 1, providing for 45 hours, wholesale druggists have added 3.75 percent of new employees. (See Exhibit B, pages 13, 14, 15, and 41, also Exhibit C, pages 17 to 23 inclusive.) It will be noted that the increase in payroll was 5.6 percent. This increase in payroll was due to the addition of new employees, to the placing of part-time employees on a full-time basis, and to the raising of the minimum wage rates in certain instances. Theoretically, the increase in number employed on the basis of the facts brought together in the Exhibits should have been 6.9 percent. The actual increase was 3.75 percent and the natural decline in labor was 6.4 percent. The wholesale drug trade has therefore actually increased employment about 3 percent over losses due to natural causes and this in the face of practically no increase in sales and an increasing loss due to credit conditions. It should be emphasized that the wholesale drug house, with rate exceptions, always maintains a staff capable of handling 25 to 30 percent more volume than normal and this staff is maintained when sales

drop an equal percentage below normal volume. Furthermore, it is essential for many reasons that this staff be maintained in this way. Among the reasons are -

1. The inability to quickly replace especially or expert trained helpp

2. The requirements of the industry to immediately deliver essential medicines.

3. The necessity for handling the business immediately on its receipt rather than to spread it out, which would be the economical procedure if it were possible to keep all the force working at full speed during all of a given number of hours. (See Exhibit C, pages 27 and 28, paragraph 11, also Exhibit B, pages 15 to 17, also Tables XXIV to XXVII inclusive, pages 43 to 46.)

4. The staff of the wholesale drug business, is employed on a weekly basis and not on piece work or by the hour, and is primarily maintained on a yearly basis. (See Exhibit C, page 27, paragraph 10.)

X. Wages in the Wholesale Drug Industry

Complete information on wages in the wholesale drug industry is presented. (See Exhibit B, pages 8 to 11, Tables VII to XIV, also Exhibit C, pages 10, 11, 13.) The code as presented provides for a differential between the North and the South and this is essential in the wholesale drug trade. (See Exhibit M.) Generally, wages in the wholesale drug indus-

try are substantially above the minimums for full-time employees. This applies almost universally to the 77 percent of specially trained or expert help. It also applies to a majority of the remaining 23 percent.

In addition to the facts to which reference has been made in these remarks, there are many others which are of vital significance to the industry in the conduct of its business and to the Administration in the guidance it offers to the Industry. To these we urge the Administration to give careful thought in the consideration of this proposed code. The Code Committees have considered these problems of the Industry with great care. We appreciate fully that after all, efficiency in the Industry means that a needed service in the protection of health is rendered at minimum cost to the public and that in the giving of this service the Industry provides the maximum of purchasing power on the part of its employees and owners. These objectives we have kept in mind fully - formulating the Code. We believe that to the fullest extent possible the objectives of the N.R.A. will be realized in the adoption of this Code as presented and and we pledge our continued support to the N.R.A. to this end that the Code may be finally approved which adequately protects the public health and does its full part to aid in the recovery program.

Thank you.

Deputy Administrator Dameron: We will begin the afternoon

session with any questions that we may care to raise, and we will recess at this time until 2:30 o'clock this afternoon.

(Thereupon, at 12:30 o'clock p.m., a recess was taken until 2:30 o'clock p.m.)

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AFTER RECESS

The hearing reconvened, pursuant to recess, Dr. Kennth Dameron, Deputy Administrator, presiding.

Deputy Administrator Dameron: Dr. Newcomb, I have some questions that I want in the record if you will be willing to try to answer them.

Wholesale Drug

Dr. Newcomb: Yes.

Deputy Administrator Dameron: First, it has to do with the type of wholesalers engaged in the drug business. I gather from the definition that you have in mind that they are mostly service jobbers. Are there many wholesalers in the drug business who probably do not carry stocks but operate either on drop shipments or a limited service basis?

Farmer

Dr. Newcomb: Mr. Chairman, it was the intention of this definition of the wholesale druggist to include therein everyone who engages in wholesale distribution or drugs, cosmetics, or toilet pieces. In some of the briefs filed, particularly briefs in Exhibit B, is a very definite breakdown of the different wholesalers, those that are service wholesalers and those which you designate as the short-line wholesalers. The definition as set forth in this present copy of the Code apparently does not include a distributor who may not sell to any of the outlets enumerated. It was not the intention of the Code Committee of the N.W.D.A. to have this worded so that it would exclude anyone. In the conference yesterday with Mr. Strange, he sug-

gested that the words "or other retailers", be added to Article II, Section 1, on the sixth line from the bottom. With the addition of those words, I believe that the definition will be very broad and include everyone that does any wholesale drug business.

Deputy Administrator Dameron: Would there be any point in modifying it further to include those who may not carry all the stock but who would still secure title to goods and act as wholesalers?

Dr. Newcomb: Not at all so far as the Code of the N.W.-D.A. is concerned.

Deputy Administrator Dameron: You are willing to make it as elastic as might be necessary?

Dr. Newcomb: Yes.

Deputy Administrator Dameron: Now, one of the items under that I want to go into, and we can just discuss it without raising a whole lot of questions, is this. The 40 percent of items handled by the wholesale drug that are non-drug items, other kinds of wholesale, what kinds of wholesale products would you be in competition with in those items? Let us take the forty non-drugs first and then the drugs.

Dr. Newcomb: That is a very difficult question to answer. I might say almost everyone in the general wholesale line where merchandise which is sold in retail drug stores is distributed.

Deputy Administrator Dameron: It would run the gamut of

our general wholesalers.

Dr. Newcomb: Yes. We attempted at the request of Mr. Whiteside earlier to define drug sundries. We frankly could not do it. Mr. Whiteside said, "Well, we will write one", and the definition which is in this Code, I believe, is one which was written by the Department, but where and by whom I do not know.

Deputy Administrator: Dameron: Likewise, to your knowledge, are there many wholesalers ---let us say, perhaps, in the food field---who might be handling items which are more appropriately drug items; I am speaking of some of the border-line cases---- I do not know exactly what name they go by.

Dr. Newcomb: For example, wholesale groceries that handle drug products, I do not think it is so much, but there may be in the United States out of 1491 referred to in one of the exhibits, possibly 200 altogether, and the line, the quantity, the number of items is exceedingly variable. In some cases, they make several hundred and in other cases possibly 40 or 50.

Mr. Maynard: To what extent do wholesale groceries handle items that are handled by drug wholesalers?

Dr. Newcomb: I just answered that question. In some cases they may handle 40 or 50 rapidly moving proprietary articles, medicines, and in other cases they may handle several hundred out of the one hundred or seventy-five thousand that are possibly distributed.

Mr. Maynard: Would the same apply to the hardware wholesaler to any extent?

Dr. Newcomb: I do not think to any others.

Mr. Maynard: To the electrical wholesaler in drug sundries?

Dr. Newcomb: I do not think so. They might handle electrical appliances.

Mr. Maynard: Electrical goods.

Dr. Newcomb: Like the various lines that used in the medical treatments.

Mr. Maynard: Even such items as light bulbs, electric irons for the home, and that type of articles are handled in many drug stores?

Dr. Newcomb: That is true.

Mr. Maynard: Items more or less handled by wholesale drug houses?

Dr. Newcomb: Generally I think that is true, a very small percentage.

Mr. Maynard: To what extent are you in competition with the wholesale confectionery?

Dr. Newcomb: Very few of our wholesalers engage very much in the wholesale candy business. There are a few who do have quite a large candy business.

Mr. Maynard: Is the same true of the tobacco products?

Dr. Newcomb: That is true of tobacco also.

Mr. Maynard: That is all.

Deputy Administrator Dameron: Mr. Merrill, do you have any questions on the definition section of the Code that you care to ask Dr. Newcomb?

Mr. Merrill: Dr. Newcomb, where it says in line 3 of section 1 of Article II, Definitions--"selling at wholesale a representative assortment of pharmaceutical and/or other articles and materials",-- the definition goes on further -- it seems to me that might be interpreted that the wholesale drugs have to carry pharmaceutical items.

Dr. Newcomb: It is not so intended.

Mr. Merrill: It looks to me as though that is one point.

Deputy Administrator Dameron: We could work that out with Dr. Newcomb.

Mr. Merrill: I believe you said that you wanted this definition changed to include people who handle those products.

Dr. Newcomb: That is right.

Deputy Administrator Dameron: In other words, it was not your intention to exclude any class of wholesaler from the definition of the industry?

Dr. Newcomb: That is right.

Deputy Administrator Dameron: So it seems to me that is the definition as it was.

Dr. Newcomb: I may say that they rewrote this definition four or five times and the additions applied to this one had two sections in it, (a) and (b), and section (b) very specif-

ically covered this point that is now raised, and the Legal Department rewrote it as we have it here now.

Deputy Administrator Dameron: I am sure we can work it out.

Dr. Newcomb: Unfortunately they did something that we did not ask and that none of us want.

Mr. Maynard: Would it include the so-called supply houses that are in reality to some extent, retailing drugs, handling physicians' supplies, the physician supply houses that handle a line of physicians supplies?

Dr. Newcomb: I thought it unless you interprete them as wholesalers.

Mr. Maynard: Do they offer direct competition to the wholesale druggist?

Dr. Newcomb: Very little.

Mr. Maynard: Therefore, you would not want them included under this Code definition?

Dr. Newcomb: I do not believe it would be proper that they would be included.

Mr. Maynard: Mr. Kimball, do you have any questions on the definitions section?

Mr. Kimball: Mr. Mather and some of the others have gone over this question quite a bit, and we have prepared---I do not want to give them definitely until we have a conference later---prepared a definition of wholesale drugs which we felt would be better inasmuch as it follows the general code

and applies directly to their particular type. Then we also had several new definitions which we would like to include, such as defining various types of things mentioned in here without any definition. That may be taken care of later.

Deputy Administrator Dameron: Are you operating on a 46 hour week under the FHA?

Dr. Newcomb: Yes, under the FHA.

Deputy Administrator Dameron: About what employment did that effect in your line?

Dr. Newcomb: The effect of it, I guess, are given in one of the briefs.

Deputy Administrator Dameron: You referred to that this morning.

Dr. Newcomb: Yes.

Deputy Administrator Dameron: Did your brief cover how many workers are affected by the minimum? I notice this morning someone said 70 percent of the employees are experts and I was wondering how many would be affected by the minimum set up in this Code.

Dr. Newcomb: No, I do not believe any of the tables indicate the percentage of employees which might be called especially trained or experts. Those facts were developed during the last three weeks when we came to a study of the percentage of the wholesale drug business, and the only percentage figures, I believe, that we have are those that have been submitted by a number of

wholesale druggists, which were filed this morning.

Deputy Administrator Dameron: I gather that the order pickers are rather important men today, available at all times on account of this?

Mr. Newcomb: That is true.

Deputy Administrator Dameron: What happens now when an order picker is taken ill or he has a vacation in a more or less variable sized establishment. I am not thinking of the really large place where they might be said to do the same thing.

Dr. Newcomb: The work has to be done by another order picker, possibly one, covering an adjoining section which he may be more or less familiar with but not as if it is his own section.

Deputy Administrator Dameron: Would it be a practical solution to make some compensation on the hours situation for, say, an order picker, and then put the other employee on a shorter work week?

Dr. Newcomb: I do not see how for a moment it can be worked out, but our Code Committee will certainly be happy to consider any suggestion that the group might offer to us.

Deputy Administrator Dameron: Why could it not be worked out? What would be the practical objection?

Dr. Newcomb: The facts are that in similar houses the activities of individual employees would be over several different departments. A man may be an order picker for part of the day in one department, a part of the time in another department.

He may be performing several other functions in the wholesale house and I think if you attempt to create a differential for certain types of employees in the wholesale house, you might do it satisfactorily for 25 houses that would be set up and do about the same volume and have about the same number of employees in a given job, that would not fit for each of 25 in another group of the presumably 400 or 500 wholesalers in the country. They overlap. They run one into the other, and I believe it would be an impracticable proposition although theoretically it would appear to be possible. Practically I doubt very much if you could ever apply it equitably throughout the industry.

Mr. Maynard: The cause of this overlapping then of order pickers between different departments of the small houses, just why could they not be put on the 40 hours, when we say here 48?

Dr. Newcomb: You have the same problem in the small house as you had with the large house and in the small house it is even more accentuated because you have in the small house the help employed in the several departments or sections and they have to have a wider training. As a matter of fact, more ability For the reasons that apply to the difficulties of 40 hours apply equally to the small house as to the other houses, even more so to the small houses.

Mr. Maynard: What change, if any, was made in order pickers by the PRA ?

Dr. Newcomb: I think the few changes that were made are

the kind of changes that are always made in the wholesale drug business when new help has to be employed, due to the fact that the sales have increased some, and when there is an increase of any more than 25 per cent over the average some help must be added and apprentices and beginners are brought in to serve as assistant to the pickers and gradually they become qualified and work in.

Mr. Maynard: You then have the order pickers working about how many hours on the average a week, more than 45 ?

Dr. Newcomb: Yes, in some cases.

Mr. Maynard: The industry suggested 45 hours a week at that time, did it not, for order pickers?

Dr. Newcomb: Yes, those that were working more were brough down to 40.

Mr. Maynard: You feel in spite of the fact that the industry suggested 45 hours under the PRA, they could not adjust to 40 hours now?

Dr. Newcomb: They took up some slack. I think you apparently do not keep in mind the fact that in every wholesale service there are houses with a staff that are able to handle 25 to 40 percent more volume than they normally handle, and when we went to 45 hours some of the slack was obviously taken up. The facts prove it. That is all set forth in briefs B and C.

Mr. Maynard: Is it your feeling that the slack was taken

up by the 48 hours even to such an extent that it could not adjust itself to the 40 hours basis?

Dr. Newcomb: Certainly, it would not result in any new employment. Apprentices and beginners are continually added when there is a growth in business. When there is a decline in sales they are not added.

Mr. Maynard: I fail to see then why you could not use apprentices for the purpose and adjust to the 40 hours basis, realizing that it takes some time to train apprentices, of course. You have some slack.

Dr. Newcomb: Apprentices are continually being added when sales increase, but at the present time there is no need for an increase in apprentices unless sales very largely increase. In other words, you would have to buy chairs for them to sit on. There would be no such profit to it.

Mr. Maynard: From the statement this morning, at least, in some centers the industry has already adjusted itself where there is no other supply available.

Dr. Newcomb: That is a fact.

Mr. Maynard: What will they do if they do not get the apprentices?

Dr. Newcomb: They will bring apprentices in gradually as the demand has increased with the sales possibility. That is what they always do.

Mr. Maynard: In that case they could be brought into ad-

justment with the 40 hours week, could they not?

Dr. Newcomb: Surely, you could bring them in.

Deputy Administrator Dameron: Mr. Merrill, do you have any questions on wages and hours at this time?

Mr. Merrill: No, not yet.

Deputy Administrator Dameron: Before continuing with the witnesses I will call on our Boards, as the Codes representatives, to have the record state that the Code is presented and I will ask for any reports from our Boards. Has the Industrial Advisory Board any report at this time?

Mr. Rumely: No.

Deputy Administrator Dameron: Have you a report from the Consumers' Advisory Board?

Mr. Aaronson: I have a statement that has been prepared by Mr. McGuire as follows:

STATEMENT OF THOMAS McGUIRE,

CONSUMERS' ADVISORY BOARD

The Consumers' Advisory Board advised against approval of the differential clause in the general wholesale code, believing that the provision is economically unsound. Our objections on that point are a matter of public record, and it is unnecessary to repeat them here. The plain fact is that if the wholesale drug trade wishes to avail itself of that differential clause, it can do so by simply coming under the jurisdiction of the general code.

We believe, however, that the drug trade will not wish to use this provision. The position of the wholesaler in this trade is not such as to require a clause like this to sustain it. The distribution and credit service he renders cannot be effectively performed by any other agency thus far developed. He needs no club to retain his place in the distribution scheme. The continuation of his essential relationship to supplier and retailed is far more effectively insured by participation in the Coordinating Council of the Drug Industry and Trade than by any clause written into a code.

Further, we believe that no drug wholesaler, whose effective servicing of his trade depends primarily on maintaining a complete line, can afford to enter any agreement which may commit him to a boycott that will cut him off from certain manufacturing sources.

The recommendation of the Consumers' Advisory Board, to the Administrator and the trade, is that Article VII, Section 10, be deleted from the code.

In Section 12 of Article VII suggest changing the words "with the approval of" to "and approved by".

We also present for consideration, the recommendations of the National Bureau of Standards.

"Standards for drugs recognized in the enforcement of the Federal Food and Drug Act are set forth in the United States Pharmacopoeia and the National Formulary. The writers of the

present code have accepted the descriptions of the preparations in these two publications in defining the scope of the code.

Deviation from the above-noted recognized standards of the industry should always be called to the attention of the consumer by means of labels on the containers.

It would be very helpful if suitable labels were used also with such drugs as do comply with the standards set forth in the Pharmacopoeia and Formulary.

Deputy Administrator Dameron: Has the Research and Planning Division any report to make?

Mr. Kimball: The Research and Planning Division feel very strongly in accord with the Labor Advisory Board on the question of hours and labor provision. We have had a number of discussions with Dr. Newcomb and other members of the trade, and we feel that in coming into this meeting and asking for special consideration as to hours and then asking for lower wages than the General Code, it does not quite gibe for some reason. In talking with the different members of the trade at different times the only that really seem to need the exemption of 45 hours are the firms in which the order pickers are so arranged as to make it impracticable to have substitutes or to add other people on the shifts. I think that the argument of mail schedules, etc., is a very much more valid argument than the argument of public health. We all agree with the public health feature but we know that the Wholesale Druggist Code is at

one o'clock on Saturday until eight or nine o'clock Monday morning and we do not feel that that is such a valid argument. The Code permits them to stay open as long as they wish, as they see fit. There is some mail schedule or some other thing which requires the plant. I feel even in those cases there is certainly this re-employment in the industry in almost every branch of the wholesale drug houses. There have been times when it has been difficult to get hold of competent people to fill those positions rapidly, and yet I am told on good authority by a number of wholesale druggists that it is quite customary in the trade for the retail pharmacist to go into the wholesale drug houses and swap back and forth. I also understand that there is considerable unemployment among retail pharmacists and so I do not believe from all I have seen thus far that it would be impossible to get hold of people in the case of re-employment.

As far as some of the other provisions are concerned there will have to be, I am sure, a general re-wording of the labor and hours provision. For example, just for a little thing, we feel that time and a third should be paid for overtime during times of epidemics. That is undoubtedly the time that wholesale druggist makes most of his money, and we feel that then the labor part, the employees, should have some benefit from that if he has to work those hours -- those long hours -- in those times.

Also the question I asked of some wholesale druggist, how many of your 40,000 items carried in the drug wholesale line are fast moving merchandise items, and I understand that not more than 500 of them would come under that category. I strongly feel that the Research and Planning Division, from our point of view, we feel that there has been nothing presented which would justify the provisions as they are, because any exemptions that might be made, the only possible people who might need such exemptions would be the order pickers, and if they are such experienced men and require such a long training, I feel they must be compensated by paying them a minimum wage slightly higher than those giving 40 hours a week. I feel that possibly some of these things that have been presented are old customs in the trade and possibly they are not necessary to be carried on in the way they have been. We do have in mind the public health function and anything that would hurt it we must consider, but it does not seem that any of the arguments that have been presented in this hearing or at other times has yet come out and shown a real case to make such an exception. It really means just one hour a day less for the first five days of the week, cut down to 40, and as far as the druggist now knows they cannot send in at a certain time, if they find it will have to be an hour earlier they will arrange it. I think a lot of these merchandise items that come in are simply replacement orders and there a lot of them, and in many cases the drug retailer can

call over to another drug retailer and get it, if there is any question on that.

Mr. Mather: I will ask Mr. Newcomb a question. Is it not true that at least one of these associations is operating under a so-called consent degree with the Department of Justice?

Dr. Newcomb: That is true.

Mr. Mather: Which association is that?

Dr. Newcomb: The National Wholesale Drug Association.

Mr. Mather: Are any of the other associations under a consent decree?

Dr. Newcomb: Of one other association?

Mr. Mather: Any other of your associations sponsoring the Code operating under a consent decree.

Dr. Newcomb: I do not think so.

Mr. Mather: At this time I will ask you to present, for the attention of Dr. Dameron, certified copy of the consent decree as soon as you can get it. It will be necessary to see the provisions of that to determine the question of approving this.

Dr. Newcomb: It is published in one of our industry books.

Mr. Mather: I would like a certified copy of it.

Deputy Administrator Dameron: You need not confine your report to the labor end of it. Do you wish to add anything more to your report Mr. Kimball?

Mr. Kimball: I mentioned that I would like to make some

changes in the definition but I did not go further than that because I think they will be in accord with carrying out the same general idea. There is one thing that the Research and Planning Division feel, that the druggists of American should not be considered in forming the Code Authority. As I understand, from members of the trade, the Drug Institute has about 1100 members who are wholesale druggists, and of that, only 80 or 90 are not representives of the field of a National Association. I understand further that the reason the Drug Institute was included was because they wanted to use that method of giving non-association members representation on the Code Authority. I feel that it would be better to leave them out and allow the non-members to have their own Code members appointed in the manner approved by the Administration rather than have doubling of any representation through people who would be represented by either the National or Federal Association.

We had several additions we would like to make to the Code. I believe that they are all in conformity with the general clauses going into the Codes now.

Deputy Administrator Dameron: Are they more or less simply the routine type of changes or are they basic?

Mr. Kimball: I can incorporate those into the record by giving them to the stenographer it will probably save some time. One thing we would like to have is to have someone in

the trade tells us from our point of view why they prefer a separate Code or why there is any necessity for a separate Code. We know that wherever possible we would like to keep the different trades in definite Codes but if there is real justification we would like to have it from the trade.

I will read one clause, and that is to add -- and this is not a standard provision -- to add this clause under Article VI:

"To appoint representatives to serve on any Drug Industry Code Council which may be established to be composed of representatives from the various Code Authorities governing Codes which are directly related to the Drug Industry, and to act as a planning and coordinating agency for the stabilization of employment, for the entire Drug Industry."

This has been discussed by the coordinating council, and not being the routine provision I thought I ought to mention it.

(The amendments referred to by Mr. Kimball are as follows:)

13. Art. III, sec. 3: Add at end of paragraph, new sentence: "Any rest period which may be given employees shall not be deducted from such employees working time."

14. Add as new section under Art. III: "No employer shall knowingly permit any employees to work for any time which when totalled with that already performed with another employer or employers in this trade or any other trade or industry ex-

ceeds the maxima herein permitted."

15. Art. IV, Sec. 1: (a) Substitute the following:

"This Article establishes a minimum rate of pay which shall apply irrespective of whether an employee is actually compensated on a time-rate, piece-work, or other basis. Part-time workers shall be paid at a rate sufficient to produce the minimum weekly wage for a full-time week as provided herein for such employees."

16. Art. IV, sec. 2.: Substitute the following: "The weekly compensation for all employees as of June 16, 1933, shall not be reduced on account of the reduction in hours caused by this Code, nor shall it be reduced in order to absorb increases in total payroll occasioned by this Code. Methods of adjustment in hourly rates made since June 16, 1933, shall be reported to the Code Authority."

17: Add the following new sections to Art. IV:

"No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act of this Code."

"No employee now employed at a rate in excess of the minimum shall be discharged and re-employed at a lower rate for the purpose of evading the provisions of this Code."

"Female employees performing substantially the same work as male employees shall receive the same rate of pay as male

employees."

18. Art. V, sec. 1: In the third line, delete the words "declared by the Code Authority to be" and insert instead the words "which are".

19. Add a new section under Art. 7: "Every employer shall provide for the safety and health of his employees at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator within six (6) months after the effective date of this Code."

20. Add under Art. VI, sec. 2, as a new power and duty of the Code Authority: "To appoint representatives to serve on any Drug Industry Coordinating Council which may be established to be composed of representatives from the various code authorities governing codes which are directly related to the Drug Industry, and to act as a planning and coordinating agency for the stabilization of employment, for the entire Drug Industry."

21. Add as a new Article between the present Arts. IX and

"Whereas the policy of the Act to increase real purchasing will be made more difficult of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases except such as may be required to meet individual cost should be delayed. But then such increases should, so far as possible, be limited to actual additional increases in the seller's costs."

22. The present Art. X should be changed to read; "This Code shall become effective on the second Monday after approval."

Deputy Administrator Dameron: I will call now on Mr. Fox, of the National Retail Dry Goods Association.

STATEMENT OF MR. IRVING C. FOX,
REPRESENTING THE NATIONAL RETAIL
DRY GOODS ASSOCIATION.

Mr. Fox: Our 4500 members are interested in this Code because the members of this Code are the sources of supply for the majority of our members for these drugs. I am sorry that there is any argument in the discussion of the definition because I was wondering what objection I had to this Code. I understand that members of the Code Committee have now declared their intention of clearing up that definition so as to not include a great many wholesalers whom we feel belong under this Code.

However, I will say just a few words on that subject. I do not believe that this definition was inadvertently drawn, frankly. I do not believe that the intelligent members of the Code Committee drew any definition with any intent except to exclude these wholesalers who have been excluded under this provision. I do believe that the Legal Department drew that provision and the Legal Adviser worded that provision very cleverly and has worded it and I believe the Legal Advisory Board, the Legal Adviser drew that provision to carry out the intention of

the Code Committee. I may be wrong, but it does seem that intelligent men know the use of words and know the effect of words and those words undoubtedly were effective in excluding from the provisions of this Code a great many wholesalers who were entitled to the privilege of it, and if that is accurate now, we should not waste any more time on that subject excepting that I would, of course, like to see the new definition after it is prepared. I am interested likewise in Little Orphan Annie as I think it shows up in paragraph 4 of the definition. Her father, section 1, has repudiated her, and yet here she is in section 4, Cosmetics and Toilet Preparations. There is no reference anywhere in the Code to Cosmetics and Toilet Preparations except in section 4. Just what section 4 is doing there I do not know. It is not included in Definitions; it is not included anywhere in the Code. Are cosmetics and toilet preparations to be included in this Wholesale Code? If not, why section 4?

That is just one of the things we would like cleared up so that we might know hereafter with whom we are going to do business. I have read section 1 very carefully. The definition of wholesale druggist has nothing in there that refersto section 4, nor anywhere else in the Code is there any referenee to section 4, Cosmetics and Toilet Preparations, yet it is carefully defined in that section. I think that requires some thought. With great self control, I refrain from saying any-

thing with regard to the differential clauses. I will let that do its own cursing.

On the cost provision I might say a word. We object to the cost provision in this Code. After the public hearings and the Code Authority hearings of the past two weeks, we presume that the Administration is going to establish some definite policy on the cost provisions, but these distribution industries have had, with one exception, a small exception, no such cost provision nor has any such provision been permitted.

If it is going to be the policy of the Administration to permit in the distributing industries any such cost provision, of course, we retailers want to get in on it. But I do not see any reason why a wholesaler should have a cost provision of this type which is denied to the retailer. They do not manufacture. They buy. They therefore have an invoice cost. To add to the invoice cost or possible overhead of the costing system means not only will they obtain a floor for the sale of their products, the actual expense, but any other expenses that they may or may not incur, and it will then establish a complete price floor that will include anything which the cost system may for the distributing trade. We are not given it and I do not see why any distributing industry should be given a provision of that kind. I thank you.

Dr. Newcomb: May I speak?

Deputy Administrator Dameron: No.

Dr. Newcomb: I simply want to thank you.

Deputy Administrator Dameron: Well.

Dr. Newcomb: I just want to thank the gentlemen who just spoke for calling our attention to the toilet preparations and cosmetics coming under the definitions, and again, the Administration rewrote the definition, and the original definition which we wrote included everybody and it was our proposal. I do feel that you should allow this to stand in the record because I believe that the men of these Boards know that those who presented this Code on behalf of the N.W.D.A. stood for a Code which would include everyone. The original definition came from the Internal Revenue Bureau and it was not broad enough and we ourselves broadened it out to include everything.

Mr. Fox: I am very glad you apologize.

Dr. Newcomb: Thank you. However, that is in the record too.

Deputy Administrator Dameron: The next speaker is Mr. J. W. Levison of Brock and Fisher or, is it Kirby-Block and Fisher?

Mr. Levison: Kirby-Block and Fisher. Mr. Administrator and members of the Board, the main objection which I have to the Code has been taken care of by Dr. Newcomb, I really have no definite objection to make at this time. My purpose in being here today was to qualify the question of definition and and as that is now going to be adjusted I am not going to make

any definite statement. I would just like to say that I would like to have a copy of the new definition when it is prepared, if I may.

Deputy Administrator: The next speaker is Mr. Irving Thalman of Kirby, Block and Fisher.

Mr. Thalman: The statement Mr. Levison made also covers the statement I would make.

Deputy Administrator Dameron: We will hear Miss Frances Kneitel.

STATEMENT OF MISS FRANCES KNEITEL,
ATTORNEY FOR THE ALLIED WHOLESALE
DRUGGISTS, INC., 120 WALL STREET,
NEW YORK CITY.

Miss Kneitel: I was glad to hear Dr. Newcomb to say that the Code was intended to include everybody now engaged in the industry under the definition. It includes all members of the N. W. D. A. and all the others by whom this Code was presented. It would hardly be fair to say that the Code was the Code of the N. W. D. A. members rather than the Code for the entire Wholesale Drug Industry. I think the suggestions that were presented this morning show that there are, at least, 1100 or more wholesale drug members, and only 235, or a figure very close to that, are members of the N. W. D. A. The vast size of the members included in the Wholesale Industry are independents, not affiliated with the N. W. D. A. If I may presume I will

offer a definition which I think would cover everybody now engaged in the industry.

The definition of "Wholesale Druggist" contained in the Proposed Code would eliminate legitimate wholesalers now engaged in selling to the retail drug trade. The members of the organization which I represent although not members of National Wholesale Druggists Association have all been in business for upwards of fifteen years. Their annual volume of business runs into millions of dollars and they are now and have been for many years an important part of the wholesale drug trade.

Under the provisions of Section I of the proposed Code a drug wholesaler would be obliged to keep in stock what in the opinion of the Code Authorities constitutes a representative assortment of drug merchandise. The fact that the wholesaler had no customers for many of these products would not be controlling--on the contrary--he would be compelled to conduct his business in accordance with a chart and specifications drawn by a Central Authority without regard to his special requirements or ability to resell.

Wholesale Druggists sell to the "Retail Drug Trade" and since a definition of "Retail Drug Trade" has already been approved by the President of the United States, it is only reasonable and fair that the definition contained in any proposed Wholesale Drug Code should be entirely consistent therewith.

We therefore urge that Section I of the proposed Code be

modified to read as follows:

Wholesale Drug Trade--The term "wholesale drug trade" as used herein shall mean all selling or supplying to retailers, physicians, hospitals and dispensaries of drugs, medicines, cosmetics, toilet preparations, drug sundries and/or allied items in the continental United States excluding the Panama Canal Zone.

This suggested definition would be all-inclusive. To deny that there has been and still is a definite trend towards specialization in the wholesale drug trade is to deliberately ignore the facts. For many years now, it has been the aim and business policy of large numbers of wholesale druggists to specialize in some particular branch of the drug industry. Yet the proponents of the Code seek to revolutionize the industry by a Code. This can not be done nor should it even be attempted.

It is submitted that the second paragraph of Section I should be eliminated entirely. Vesting the power in any Code Authority to modify the definition, from time to time, carries with it the power at the stroke of a pen to outlaw a legitimate business. Government statistics will amply support our contention that there are many wholesale drug firms in this Country who would be forced out of business because they could not qualify under the definition proposed.

"The General Labor Provisions of the Proposed Code do not fix minimum operating hours for the industry."

The general labor provisions of the proposed Code were not satisfactory to us. We heartily endorse everything that was said by the Labor Advisory Board, and that goes without reservation.

Now, I think that principle goes to probably the crux of the whole situation. The N.W.D.A., I believe, as I said before, have 235 members. Under its bylaws it elects to membership those persons engaged in the wholesale drug industry who are entirely satisfactory to it. These bylaws impose inequitable restrictions upon membership. The Association has refused to accept applications for membership arbitrarily, and has since this reservation attempted to restrict the wholesale distribution to themselves of numerous products. So long as the National Wholesale Druggists Association remains a private membership organization, obviously noone could be heard to object if we were refused a membership therein.

We suggest that no wholesale druggist shall operate on a schedule of less than fifty two (52) hours per week and that the basic hours of labor be fixed at forty-four (44) hours per week; nor more than nine (9) hours per day, nor more than six (6) days per week.

It is our purpose to fully comply with any reasonable uniform provisions which will tend to increase employment in the wholesale drug industry.

Article VI of the Proposed Code pertains to "Administration"

The present By-Laws of the National Wholesale Druggists Association impose inequitable restrictions on membership. This Association has refused to accept applications for membership arbitrarily and has since its organization attempted to restrict the wholesale distribution to themselves of numerous products. So long as National Wholesale Druggists Association remained a private membership organization obviously no one could be heard to object if he were refused membership therein.

Under the proposed plan National Wholesale Druggists Association would control the wholesale drug industry by its voting power on the Code Authority. Either it should remove its restrictions to membership in its organization or else it should be denied representation on the Code Authority.

The attention of the Administrator is called to the fact that although National Wholesale Druggist Association had notice of the existence of various organizations representative of independent drug wholesalers, it chose to completely ignore them in formulating the proposed Code. So far as we know, no notice was given to any non members of any conferences held for the purpose.

As to the Drug Institute obviously there is some reason why they should be given representation or any part of vote on the Code Authority.

Section 3a of the Industrial Recovery Act expressly provides that "the President may approve a code or codes of fair

competition for the trade or industry or subdivision thereof, represented by the applicant or applicants, if the President finds (1) that such association or group impose no inequitable restrictions on admission to membership therein and are truly representative of such trades or industries or subdivisions thereof." Neither National Wholesale Druggists Association nor the Federal Wholesale Druggists' Association as now constituted are qualified either to present the Code or to participate in the activities of the Code Authority to be set up.

We submit the following amendment to Article VI entitled "Administration."

"Membership in the associations represented upon the Wholesale Drug Authority shall be open to all engaged in the Wholesale Drug trade and said associations shall impose no inequitable restrictions upon admission to membership therein."

We object to subdivision (b) of Section 2 of Article VI in the proposed Code.

To permit the producers and distributors by cooperative means to control any commodity is contrary to established law. This Code is intended for the wholesale drug trade exclusively and its Code Authorities have no power to regulate or control any other industry whatever.

We request the following amendments to Article VII entitled "Trade Practices."

"Compulsory Purchases. No drug wholesaler shall compel

a buyer to purchase one product in order to purchase or obtain another." also

"No wholesaler shall combine with other wholesalers to influence or attempt to influence any manufacturer to restrict the wholesale distribution of any product to any association or group or to refrain from dealing or contracting to deal with competitors."

Unless this protection is granted to the independents they will be eliminated from the wholesale drug industry. If wholesale distribution could by cooperative means be restricted to members of any particular association, it would not only create a monopoly in restraint of trade, but also establish an exclusive agency for the benefit of an organized favored group. They would thereby be enabled to monopolize and control the wholesale drug business. No group should have the power to interfere with the rights of others, to engage in the same industry upon an equal basis. Such a plan is against public policy. Free and fair competition is conducive to the publi welfare, and is a protection to consumers.

We request the following amendment to Article VII.

"It shall be an unfair trade practice for Wholesalers who secure a substantial portion of their business from members of the retail trade to enter into competition with retailers by selling merchandise at wholesale prices to ultimate consumers for personal use or to sell to civic, institutional and/or similar types of wholesale customers, merchandise for the

personal use of employees of such customers. Nothing in this section, however, shall prevent bona fide sales by such wholesalers to their own employees of merchandise that is for the personal use of such employees."

It is urged that adequate representation on the Code Authority be granted to independent wholesalers' organizations to the end that no inequitable restrictions shall be made in the future.

We contend that the N. W. D. A. has for many years past and at the present time attempted by various means to restrict wholesale distribution of drug products to the Association and that some measure of protection must be given to the independents against any such activity.

If any organized group are permitted to employ the strength of their combined buying power so as to prevent their competitors from procuring various products upon which the very existence of the latters' business depends, such group could automatically drive their competitors out of business. Such methods destroy equality of opportunity to compete in business which it was the very purpose of the Industrial Recovery Act to protect.

Unless you are sure protection should be given to these independents they will be driven out of business and necessarily will be compelled to discharge all of their employees and discharge the rights and the privileges in the cause of the non-members of the N.W.D.A., while others prepared for this, and the vast num-

ber of independents will be absolutely forced to go out of business.

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Monk
3:45 pm

Deputy Administrator Dameron: Mr. M. J. Wolfson.

STATEMENT OF MR. M. J. WOLFSON,

REPRESENTING THE INDEPENDENT WHOLE-

SALE DRUGGISTS OF AMERICA

Whole-Drug

Mr. Wolfson: Mr. Administrator and gentlemen of the Board, I listened this morning to such a surprising amount of so-called facts and statistics of the Industry that I beg leave at this moment to quote some facts from an official authority. Permit me to quote from the United States Bureau of the Census. The Census of 1930 listed 1487 drug wholesales, of which 638 carried a general line of drugs and sundries, and turned over a combined volume of $575,000,000 annually. There were 849 others, doing $193,000,000 business, specialists on drugs, sundries, patent medicines, sanitary supplies, rubber goods, and liquors.

Warner

That would indicate, first, that the total volume of business done by these listed wholesale druggists was approximately $738,000,000.

This morning we heard that 124 members of the N.W.D.A. who reported to Mr. Newcomb, I believe, did a volume of business of $224,000,000. There were , therefore, about 96 others who did not report.

I think that we should consider the total volume of business of the N. W. D. A. merely as the amount reported to their own Secretary, and on that basis you will readily see that they

do not represent the Industry generally.

At the outset, I should like to dissipate any thought that you may have that the present proposed Code of Competition for the Wholesale Drug Trade is actually the product of the Wholesale Drug Industry generally. I beg to submit that it is merely a very carefully proposed Code presented by a wealthy, well-organized minority of the Industry, seeking to obtain for itself every possible advantage. Accordingly, I must humbly suggest that we do not take too seriously the Code submitted here for approval.

In the notice of hearing which I received on Monday, March 12th, I note that the N.W.D.A. claims to represent 55 percent of the volume of the trade of the Industry. However, let us not lose sight of the fact that regardless of what percentage of the trade they do represent, they are nevertheless less than 15 percent of the number of firms and individuals actually engaged in the Wholesale Drug business today, and under no circumstances should this smoothly working minority receive greater consideration than their numbers warrant.

Now, to proceed with the Code itself, we believe that a wholesale druggist should be defined exactly as Miss Kneitel suggested, or, as the retail code for the drug trade suggests, merely change "retail" to "wholesale" in that Code.

The purposes of the N. R. A. will then be served by our making the definition as broad as possible, nor should the defi-

nition as finally approved be subject to change by the Code Authority.

Under "Hours of Employment", we suggest the following:

"Section 1. No wholesale druggist shall employ for any purpose whatever anyone under 16 years of age.

"Section 2. Employees shall have the right to organize and bargain collectively through representatives of their own choosing,"---

and so forth, which is included in most Codes; and, with respect to hours of labor, that no employer shall permit an employee to work more than a total of 45 hours, and---

"In any city with a population of 100,000 or more, or employees who work 40 hours per week shall be paid not less than $16 per week; all employees who work 45 hours per week shall be paid not less than $18 per week; excepting that errand, delivery, or office boys who are under 18 years of age shall be paid not less than $14 per week. In cities, towns, or villages with a population of less than 100,09 employees shall be paid not less than $2.00 per week under these minimum wages."

Permit me at this time to qualify as an expert in the drug business. I have been in this business all my life. I have been in the retail end. I am a former instructor of pharmacy at Columbia University. I started a wholesale drug business about twelve years, and built it up in 1931 to a volume of about $2,000,000 per annum.

I employ in that business over 60 people.

I have never in my life heard such complaints about labor as are being made here today. I believe that the complaints are exaggerated almost to a point of caricature. I have never in all my experience had difficulty with help in the question of picking orders or packing or anything of that sort that has been brought out here this morning.

It is true that some employees may be better than others, but that is true in every field. In my business, I have always handled a complete line of chemicals, and some, as Dr. Newcomb pointed out, are spelled very nearly like the others, so nearly that perhaps a mistake would mean death, but that does not prove anything. Everybody must be careful in what he is doing. If a picker by any accident should pick the wrong chemical, there is a checker in the organization that would catch it, and if he did not, the retail druggist would. To take the example cited by Dr. Newcomb, the difference betweenbarium sulphate and barium sulphide is so tremendous that even a blind man would catch it. Barium sulphate is a white powder and barium sulphide smells to Heaven.

I do not think that we have nearly the difficulty in this field that the proponents of the Code attempt to convince you that they have. Personally I have found that it usually required about four weeks time to train an employee to pick orders properly. I have taken packers into my business to pack

drugs and chemicals who were good in the glass industry, and there is no art required in packing orders; that can be done very easily.

To continue, now, with respect to selling prices, we believe the following to be quite equitable:

"In order to provide at least that labor shall be paid, wholesale druggists shall sell all merchandise at not less than 5 percent above net invoice (after all discounts, including cash discounts, have been deducted) or, open market price which is lower.

"All discounts allowed by wholesale druggists shall be cash discounts and shall be allowed only if paid within the customary cash discount period; and no discount whatever shall be allowed which brings the net selling price below 5 percent above the wholesale druggists' net invoice cost nor below 5 percent above the open market price, whichever is lower."

And we would eliminate entirely any other reference to prices at which merchandise must be sold. That means that we would eliminate entirely any reference to cost accounting systems or anything else of that type. We believe that it is unfair to the smaller man and to the majority of those engaged in the Industry.

For the purpose of administering the Code, we offer the following section:

"The administration of this Code shall be under the direc-

tion of a Committee of seven members, one of whom shall be chosen by the National Wholesale Druggists Association, one shall be chosen by the Federal Wholesale Druggists Association, and the other five of whom shall be chosen by the other wholesale druggists of the United States who are not members of either of the above named associations.

"The Committee shall have all such powers and duties as may be necessary and proper, in its discretion, to enable it fully to administer and effectuate the purposes of the Code."

Now, we come to one point which is not mentioned in the Code at all, but which is hurting our Industry beyond my ability to explain to this Committee.

For the past five months, the N.W.D.A. has been influencing an ever increasingly large number of manufacturers to resort to so-called selective distribution of their products. Exactly how to define the term "selective distribution," I do not know.

Deputy Administrator Dameron: I do not believe that we need to discuss that at this hearing.

Mr. Wolfson: I am explaining why I should like to insert another clause in the Code. Perhaps I had better read the provision, and, if you like, I will give you the explanation for it.

Deputy Administrator Dameron: Read the clause.

Mr. Wolfson: (reading)

"It shall be an unfair trade practice for any individual wholesaler or group of wholesalers or association of wholesalers, or any representative or agent thereof, to attempt to influence or to suggest in any manner whatsoever to any manufacturer or to a selling agent or selling organization or any group of manufacturers or association of manufacturers, that that manufacturer or group of manufacturers or association of manufacturers should continue selling their respective products to any other wholesalers, or to attempt to induce any manufacturer or group of manufacturers in any way whatever to limit their distribution to any particular wholesalers or group of wholesalers."

You see, at the present time, each day, in fact another manufacturer notifies the independents generally that he is resorting to a selective system of distribution. The cause of it, I do not know; I know merely the result, and that is, that each day dozens and dozens of wholesalers in my own city are being cut off from their source of supply by various manufacturers

Deputy Administrator Dameron: I believe that that is a subject for a manufacturers' Code; I doubt very much if it is a subject for this Code, and we can go further than that and question whether or not the question of selective distribution as a business policy and not a trade practice should be in any Code.

Mr. Wolfson: Certainly it would belong in this Code, I think that we could consider it an unfair practice for any whole-

saler to limit his distribution to that wholesaler or those wholesalers that he represents.

Deputy Administrator Dameron: Again I do not want to engage in any argument, but that would not necessarily be an unfair trade practice.

Mr. Wolfson: Wouldn't that tend to create monopoly by eliminating the small man entirely, or anyone who is cut off from the source of supply?

Dr. Newcomb: It is illegal at the present time, Mr. Chairman.

Mr. Wolfson: Under the Code as presented, we have Article IX headed "Monopolies"---

Deputy Administrator Dameron: You take my word for it; I do not believe that the subject of selective distribution is a proper subject for this Code in this hearing.

I would be glad if you would continue with your general discussion of the Code.

Mr. Wolfson: I have finished with that.

Deputy Administrator Dameron: May I ask, Mr. Wolfson, about how many wholesalers you represent?

Mr. Wolfson: I represent 24 in the City of New York, and that is twice as many and maybe one or two more than the N.W.D.A. have in the City of New York.

Deputy Administrator Dameron: About what is the aggregate volume of these 24?

Mr. Wolfson: I do not know exactly, but I do know that the smallest does a volume of about $150,00 a year, and the largest today between $500,000 and $550,000 a year.

Deputy Administrator Dameron: Would you hazard a guess as to what the aggregate would be?

Mr. Wolfson: I think that if we were to average it at $350,000 we would come close enough.

Deputy Administrator Dameron: About how many employees are employed in these 24 establishments?

Mr. Wolfson: In the 24 ?

Deputy Administrator Dameron: Yes.

Mr. Wolfson: I am not certain, exactly.

Deputy Administrator Dameron: Can you give us the range?

Mr. Wolfson: The range would be about 8 employees in the smallest, to about 35 in the largest.

Deputy Administrator Dameron: You referred to your particular business a minute ago. I was wondering about how many items you carried in stock.

Mr. Wolfson: In 1931, I carried approximately 3800 items.

Deputy Administrator Dameron: About how many orders a day would you handle?

Mr. Wolfson: It would necessarily vary, but the monthly average ran about 2800 orders, which means about 120 per working day.

Deputy Administrator Dameron: Miss Kneitel, I was sorry

that I had to leave the room before you completed your statement, but I wanted to get the same information as to whom you represent, about how many firms, and how many individuals, etc.

Miss Kneitel: The Allied Wholesale Druggists, Incorporated, is the name of the organization, and they have a membership of approximately 15 firms. 11 of them are engaged in business in the Metropolitan district of New York and 3 are engaged in various other states in the Union, one in the District of Columbia, one in Texas, etc.

Deputy Administrator Dameron: Do you know about the aggregate volume of this organization?

Miss Kneitel: Of the business done?

Deputy Administrator Dameron: Yes.

Miss Kneitel: We estimate the volume is about $12,000,000 annually.

Deputy Administrator Dameron: And about how many employees?

Miss Kneitel: About 150.

May I revise that figure?

Deputy Administrator Dameron: Yes,

Miss Kneitel: Closer to 400.

Deputy Administrator Dameron: Although it is contrary to our policy, if there are others in the audience who wish to be heard, and who will confine themselves specifically to the Code and make statements specifically to the Code and not engage in

any rebuttal of previous arguments, we would be very glad at this time to recognize anyone who wishes to make a statement on this Code.

Mr. Robert E. Lee Williamson: May I make an additional statement in reference to Mr. Kimball's statement?

Deputy Administrator Dameron: No, don't speak to his statement. Anything on the Code is all right, but don't speak to Mr. Kimball's statement.

Mr. Williamson: I would like to say that reference has been made to the inability to secure qualified men to carry on in the wholesale drug business, and then, again, there has been reference to the fact that there are quite a few registered pharmacists that were out of business and looking for jobs.

I might say that the Federal Wholesale Druggists Association has checked that in the various units, and is now carrying on a check on that, and we find that there are quite a few retail druggists and clerks out of business, who have no positions. We find that there are less of them at the present time than there were about six months ago, and we are endeavoring to put this information together so that we may engage those men if and when the occasion arises that we can use them.

That point has not been overlooked by us, and we have checked over on it, and I can say that the number that are looking for positions are less now than six months ago.

I will also say that there is a very strong disinclination

on the part of graduate pharmacists to take a position in a wholesale house, unless they actually have to do it, unless they need food and clothing.

Deputy Administrator Dameron: Why is that?

Mr. Williamson: Because they do not want to sacrifice their professional standing and go into a quasi-commercial business, and use their technical knowledge not in a professional way.

Deputy Administrator Dameron: Are the wages considerably lower there?

Mr. Williamson: The wages might or might not be lower, but I do not think that that has very much effect on it.

I want to say, in reference to this hour question, of 46 hours ---I again would like to emphasize that we, in the industry, know the requirements of the industry, if you will pardon me, probably better than you gentlemen at this table today, because we have been living in it and been raised in it and worked in it all of our natural lives, and it may be very easy for you, with your superficial knowledge of it, technical knowledge, to say that this, that or the other can be changed readily, but we feel that it is not quite so simple as you gentlemen think it is.

On the other hand, we do stress the Public Health Service stronger, probably, than any of you gentlemen do, and the part that we play in it, and we do feel very strongly that the 46

week is a necessity to perform that service.

Your criticism of minimum salaries --

Deputy Administrator Dameron: Again, if you want to speak to the Code, you may do so, but --

Mr. Williamson: I want to speak to the Code on that feature.

Deputy Administrator Dameron: I would like to make this clear, that in conducting this hearing I have endeavored merely to get at the facts, and the material presented by the various members is a part of that program, and we were not endeavoring to display any superficial knowledge or opinions as to what should be done.

Mr. Williamson: One other word, and I will be through, and that is this, that so far as the minimum salaries are concerned, that is a secondary matter, that is, as compared to the 45 hours. We would be very glad to adjust the minimum salaries to meet the requirements of 45 hours.

Deputy Administrator Dameron: Thank you.

Are there others who wish to be heard? Again, I do not wish you to engage in rebuttal, but if you care to make a further statement on the Code as proposed, we would be glad to hear it at this time.

Miss Kneitel: May I add one statement?

Deputy Administrator Dameron: Yes.

Miss Kneitel: The members of the organization which I

represent have all been in business at least 15 or 25 years, and have been engaged right in the same localities that length of time. I think the Administration should know that, so that no charge can ever be made that this is a fresh group that just sprung up. They have all been respectable and responsible business people for that length of time at least.

Deputy Administrator Dameron: There are inequitable restrictions upon membership in one of the sponsoring associations-- both the sponsoring associations, and I am going to recess this hearing with the understanding that we will meet in post-hearing conference with the Committees from these associations, and work out those difficulties and attempt to adjust other changes proposed here.

This hearing is therefore recessed until such time as may be announced later.

Miss Kneitel: Will the independents have an opportunity to be present at these Committee hearings?

I think it is very vital to their interests that they should be.

Deputy Administrator Dameron: I would be very glad to have a post-hearing conference, perhaps sometime tomorrow, at which conference one representative of each of the two associations which are in essence proposing this Code should be present, and I would suggest that you be kind enough to call my office in the morning, and we will suggest the time and place

for that meeting.

Miss Knoitel: Thank you.

(Thereupon, at 4:10 o'clock p.m., the hearing was concluded.)

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U.S. Nat'l. industrial recovery adm.

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